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# TRANSCRIPT OF RECORD

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1925

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No. 480

THE UNITED STATES OF AMERICA, APPELLANT

vs.

THE EQUITABLE TRUST COMPANY OF NEW YORK

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APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF  
COLUMBIA

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FILED MAY 8 1926

(31137)

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1925

No. 430

THE UNITED STATES OF AMERICA, APPELLANT

vs.

THE EQUITABLE TRUST COMPANY OF NEW YORK

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF  
COLUMBIA

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A SUPREME COURT OF THE DISTRICT OF COLUMBIA

THE EQUITABLE TRUST COMPANY OF NEW  
York, plaintiff,

*vs.*

THOMAS WOODNUTT MILLER, ALIEN PROPERTY  
Custodian, and Frank White, Treasurer of  
the United States, defendants.

} Equity No. 42270

UNITED STATES OF AMERICA,  
*District of Columbia, ss.:*

Be it remembered, that in the Supreme Court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Bill of complaint*

Filed February 25, 1924

Supreme Court of the District of Columbia

Holding an Equity Court

THE EQUITABLE TRUST COMPANY OF NEW YORK,  
plaintiff,

*vs.*

THOMAS WOODNUTT MILLER, ALIEN PROPERTY CUS-  
todian, and Frank White, Treasurer of the United  
States, defendants.

} Equity No.  
42270

*To the Supreme Court of the District of Columbia:*

Plaintiff states as follows:

I. At all times hereinafter mentioned, plaintiff, The Equitable Trust Company of New York, was and now is a corporation organized and existing under the laws of the State of New York, having a place of business at No. 37 Wall Street in the Borough of Manhattan, city, county, and State of New York, and brings this suit in its own right because of and for the matters and things hereinafter set forth.

II. Defendant, Thomas Woodnutt Miller, by appointment of the President of the United States of America, under authority and provisions of section 6 of the act of Congress approved October 6, 1917 (40 Stats. L. 411, 415), entitled "An act to define, regulate, and punish trading with the enemy, and for other purposes," and known as the trading with the enemy act, is now and since the 12th day of March, 1921, in succession to one Francis P. Garvan, has been Alien Property Custodian duly empowered by law to receive and to hold, administer, and account under the general direction of the President and as provided in said trading with the enemy act, for all money and property in the United States  
2 "due or belonging to an enemy or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said (Alien

Property) Custodian under the provisions of" said act, and is sued herein as such Alien Property Custodian.

III. By section 12 of the trading with the enemy act (40 Stats. L. 411, 423) it is provided and required "that all moneys (including checks and drafts payable on demand) paid to or received by the Alien Property Custodian pursuant to this (trading with the enemy) act shall be deposited forthwith in the Treasury of the United States."

Defendant, Frank White, is Treasurer of the United States and is sued herein as such Treasurer for and because of the matters and things hereinafter set forth.

IV. Prior to the 24th day of January, 1916, that is from and after the 24th day of December, 1915, there was existent and in full force as published in the Reichsgesetzblatt (Code of the Empire) for 1915, at page 842 thereof, a certain law of the Imperial German Empire entitled (as translated) an "Act relating to the establishment of the second amendment to the budget of the Empire for the year 1915, dated December 24, 1915," which said law, omitting said title, is in the words and figures following, to-wit:

"We, Wilhelm, by the grace of God, the German Emperor, King of Prussia, etc., order in the name of the Empire, the Federal Council and the Reichstag having consented, as follows:

"Paragraph 1.

"The Second Amendment of the Budget of the Empire for the year 1915, annexed hereto shall be added to the Budget.

"Paragraph 2.

3 "The Imperial Chancellor shall be permitted to float a loan in the sum of 10 000 000 000 Marks in order to meet extraordinary expenditures which only once take place.

"Paragraph 3.

"The bonds and treasury notes and coupons thereto belonging which shall be issued may wholly or partly be made payable in foreign currency or in domestic and foreign currency at a certain rate of exchange to be fixed and may be made payable in a foreign country.

"It shall be left to the discretion of the Imperial Chancellor to fix such rate of exchange and special conditions for payments in a foreign country.

"Certified by OUR OWN signature and the Imperial Seal affixed hereto.

"(L. S.) WILHELM

"Done General Headquarters, December 24, 1915.

VON BETHMANN HOLLWEG"

V. Pursuant to the authority and provisions of said law the Government of the German Empire, prior to the first day of June, 1916, that is, on or about the 24th day of January, 1916, issued Treasury notes of the German Empire, identified as Series 26, Lit X. Nr 191,

payable in the city of New York, State of New York, in dollars in gold coin of the United States of America. Each of such Treasury notes, except for appropriate variations in serial numbers and amounts, reads as follows:

"Due on the first day of April 1917 Series 26, Lit X. Nr 191

"TREASURY NOTES OF THE GERMAN EMPIRE

"part of a total amount of 10 000 000 Dollars issued under authority of the law of December 24, 1915

(Code of the Empire of 1915, p. 842)

"The holder of this note is entitled to receive payment on April 1st, 1917, of the amount of

• 10,000 Dollars

"TEN THOUSAND DOLLARS

"in gold coin of the United States of America, at the office of the Central Trust Company of New York, New York.

4 "This note is exempt from all present and future German taxes and duties.

"The time for payment of this note after maturity is limited by prescription to April 1st, 1947.

"This note is valid only if legalized by the signature of the Imperial German Ambassador at Washington, or by the signature of his authorized representative, under the Embassy's official seal.

REICHSSCHULDENVERWALTUNG (German Script)

"Berlin, January 24, 1916."

"Washington, May 24, 1916  
German Embassy

"Registered

"Kgl. Preuss. Knotrolle der Staatspapiere Haar  
(Embassy Seal)

J. V. Bernstorff

Issued

Laun."

VI. On or about the 1st day of June, 1916, plaintiff, The Equitable Trust Company of New York, purchased for value and still holds unpaid, certain of the Treasury notes above referred to and described, same being more particularly identified as to number and principal amounts represented thereby as follows:

|  |            |
|--|------------|
| Notes numbered 15 to 19, both included, for the principal sum of \$50,000 each, aggregating                | \$250, 000 |
| Notes numbered 59 to 62, both included, and 65 and 68, for the principal sum of \$25,000 each, aggregating | 150, 000   |
| Notes numbered 184 to 193, both included, for the principal sum of \$10,000 each, aggregating              | 100, 000   |

Each of said Treasury notes of the Imperial German Empire so purchased and yet held, because unpaid, by this plaintiff bears the following endorsement, to wit:

"In consideration of the payment to the undersigned holder of this note of \$600—interest at the rate of six per cent. per annum, from April 1, 1917, to April 1, 1918, the receipt whereof is hereby acknowledged, the payment and maturity of this note is  
5 hereby extended to April 1, 1918.

THE EQUITABLE TRUST COMPANY OF NEW YORK  
F. W. Fuller  
Vice-President"

Since said 1st day of June, 1916, plaintiff has been and now is the owner and holder for value in its own right of the Treasury notes of the German Empire, in this paragraph specified.

Interest upon said principal sum of \$500,000, at the rate of six (6) per centum per annum has been fully paid for a period of 194 days, from April 1st, 1918; that is to say, up to the 12th day of October, 1918, as is evidenced by appropriate endorsement on the back of each of the above-described Treasury notes, leaving, as of said 12th day of October, 1918, a balance due to this plaintiff on account of said Treasury notes of \$500,000, with interest thereon from said 12th day of October, 1918, at the rate of six per centum per annum until paid.

VII. On information and belief, plaintiff avers that by virtue of his authority under the provisions of the trading with the enemy act and the executive orders of the President of the United States pursuant thereto, the defendant, Thomas Woodnutt Miller, as Alien Property Custodian, or the predecessor or predecessors of said defendant as Alien Property Custodian, have caused to be paid, conveyed, transferred, assigned, or delivered to themselves respectively as Alien Property Custodian, certain funds, securities, and/or other property of the Government of the Imperial German Empire in this country, and that such funds, securities, and other property are now  
held by the defendant Thomas Woodnutt Miller as Alien

6 Property Custodian or are now held subject to his order or are now held by the defendant Frank White as Treasurer of the United States.

On information and belief, plaintiff avers that the existing Government of Germany, which is the successor in interest and estate of the Imperial German Government, has admitted its indebtedness to the plaintiff upon the Treasury notes of the German Empire hereinabove referred to, both principal and past due interest, and has consented in writing to the payment of the principal and interest of said indebtedness out of the funds, securities, or other property available for such purposes now in the possession or under the control of defendant Thomas Woodnutt Miller as Alien Property Custodian or in the possession or under the control of defendant Frank White as Treasurer of the United States, as the case may be.

VIII. On or about the 20th day of January, 1922, The Equitable Trust Company of New York, as required in and by section 9 of said "trading with the enemy act," did file with the Alien Property

Custodian a notice of its claim, under oath, for an on account of said Treasury notes so as aforesaid unpaid and held by it together with interest at six (6) per centum per annum accrued and to accrue due thereon, all in such form and containing such particulars as said Custodian then required, and thereafter plaintiff did make application to the President of the United States to order the payment and delivery to it of so much of said moneys so transferred, assigned, delivered, and paid to said Custodian as was necessary to pay and discharge its said claim, but this the President on or about the 5th day of March, 1923, exercising the discretion in him reposed by said "trading with the enemy act," declined to do, thus relegating this plaintiff to its suit in equity as in and by said "trading with the enemy act" is provided.

IX. Plaintiff, The Equitable Trust Company of New York, is not now nor at any time has been an enemy or ally of any enemy within the definitions and meanings of "the trading with the enemy act." It claims an interest and right in the aforesaid funds, securities, and other property in the possession or under the control of Thomas Woodnutt Miller as Alien Property Custodian or in the possession or under the control of defendant Frank White as Treasurer of the United States, as aforesaid, and brings this, its suit, as authorized so to do under the provisions of section 9 (a) of said "trading with the enemy act," as amended by the act of Congress approved March 4, 1923 (Public No. 536, 67th Congress), to establish its interest, right, and debt as hereinbefore set forth and claimed.

Wherefore, plaintiff respectfully prays:

1. That writs of subpoena may be issued against said defendants,

(a) Thomas Woodnutt Miller, Alien Property Custodian (office address, Arlington Building, Vermont Avenue and H Street Northwest; residence, The Racquet Club, #1135 Sixteenth Street Northwest), and

(b) Frank White, Treasurer of the United States (office address, Treasury Department Building, residence, #5200 Thirteenth Street Northwest)

commanding them and each of them to answer the exigencies of this bill of complaint.

2. Upon proof made and after hearing, that defendant Thomas Woodnutt Miller, as Alien Property Custodian, and defendant Frank White, as Treasurer of the United States, and both or either of them as the case may require, and this honorable court shall determine to be just and proper, shall pay over to the plaintiff out of any funds of the Government of the German Empire now in their custody or in the custody of either of them, the sum of \$500,000, with interest upon said sum from the 12th day of October, 1918, at the rate of six per cent per annum to the date of this decree, and thereafter to the date of payment if this honorable court should so adjudge; or that any securities or other property of the Government of the German Empire in the custody of the defendant Thomas Woodnutt Miller as Alien Property Custodian, be sold by him under order of this court, and that the said sum of \$500,000, with interest as aforesaid, or any balance thereof which may remain unpaid after the aforesaid payments shall have been made, be paid to the plaintiff out of the proceeds of such sale.



3. For such other and further relief as this honorable court, the premises considered, may deem just and proper.

And plaintiff will ever pray, &c., &c.

THE EQUITABLE TRUST COMPANY OF NEW YORK.

By A. W. LOASBY, *President.*

MURRAY, ALDRICH & ROBERTS,

37 Wall Street, New York.

McKENNEY & FLANNERY,

Hibbs Building, Washington, D. C.

*Attorneys for Plaintiff.*

9 STATE OF NEW YORK, COUNTY OF NEW YORK,  
*Southern District of New York, ss:*

Arthur W. Loasby, being first duly sworn, deposes and says:

That he is an officer, to wit, the President of The Equitable Trust Company of New York, the plaintiff in this action; that he has read the foregoing bill of complaint and knows the contents thereof, and that the facts therein stated of his own knowledge are true, and that as to the facts therein stated and alleged on information and belief, he is credibly informed and verily believes the same to be true.

ARTHUR W. LOASBY.

Sworn to before me and signed in my presence this 19th day of February, 1924.

[SEAL.]

JOHN A. HALE,

*Notary Public, Kings County, No. 215, Reg. No. 4221.*

Certificate filed in N. Y. Co., No. 582, Reg. No. 4418. Commission expires March 30th, 1924.

10 *Suggestion as to the rights of the United States*

Filed April 11, 1924

\* \* \* \* \*

Now comes the United States of America by James M. Beck, Acting Attorney General of the United States, and respectfully suggests to this honorable court as follows:

(1) The United States of America is a body politic and is not an enemy or ally of enemy, within the purview and meaning of the trading with the enemy act, the amendments thereto and the proclamations and Executive orders issued thereunder.

(2) That the Imperial German Government was, and its successor is, an enemy within the purview and meaning of the said act and said proclamation and Executive orders issued thereunder.

(3) That on or about the 4th day of August, 1914, a state of war was declared between Germany on the one side and France, England, and their allies on the other.

11 (4) That after the outbreak of war referred to in paragraph numbered 3, the United States of America, in accordance with certain acts of Congress, passed for that purpose, issued for valuable consideration, certain policies of insurance upon certain vessels and their cargoes. The names of the said vessels, together with the policies covering the same and their cargoes, are contained in columns 1 and 2 of Exhibit A, which is attached hereto and made a part hereof:

(5) That after the outbreak of the war referred to in paragraph 3, the United States of America, in accordance with certain acts of Congress, passed for that purpose, issued for valuable consideration certain policies of insurance upon the lives of the crews of the said vessels. The names of the said persons upon whose lives the said insurance was issued, together with the policies covering the same, are contained in columns 1 and 2 of Exhibit B, which is attached hereto and made a part hereof.

(6) That during the time that said policies of insurance were in full force and effect, certain of the said vessels and their cargoes were destroyed by armed vessels of the Imperial German Government.

(7) During the time the said policies of insurance upon the lives of the said persons were in full force and effect certain of the said persons were killed by the Imperial German Government at the same time the said vessels were destroyed.

(8) That by reason of the said destruction of the said vessels and their cargoes and the killing of the said persons the United States of America became liable to pay to the owners of the said vessels

12 and of the cargoes and to the beneficiaries of the policies of insurance upon the lives of the said persons, large sums of money, by virtue of the terms of the said policies of insurance, which sums of money the United States of America has long since paid. The sums of money paid under the said policies for the loss of the said vessels and their cargoes are set forth in column 3 of Exhibits A and B attached hereto, opposite the name of the vessel and cargo, and the person killed as aforesaid, for which the said money was paid.

(9) That upon the payment of the said sums of money the United States of America became entitled to recover from Germany the said sums of money disbursed under said policies by reason of the destruction of the said vessels, cargoes, and lives by Germany.

(10) That by reason of the premises aforesaid, a right has accrued and there is now due and owing to the United States of America from the successor of the Imperial German Government the sum of twenty-nine million three hundred four thousand five hundred fifty-three dollars and thirty-nine cents (\$29,304,553.39), for all of which Germany has agreed to reimburse the United States of America.

(11) That the Imperial German Government or its successor has not paid said sum nor any part thereof and said entire sum now remains due and owing from it to the United States of America.

(12) That it is alleged in the bill of complaint filed by the plaintiff herein that there is now in the Treasury of the United States or in the possession of the Alien Property Custodian a large amount of money which the plaintiff alleges was at the time of the seizure thereof the property of the Imperial German Government. The said money

13 is now held in the Treasury of the United States. In the event that the plaintiffs herein should show that the money was at the time of the seizure thereof, the money of the Imperial German Government, the United States of America is entitled to assert the claim hereinbefore set forth against the said money now held in the Treasury of the United States, either prior to the claim of the plaintiff or upon a prorata basis with the claim of the plaintiff.

(13) That the United States of America is entitled to receive payment of the said sum out of any money of the Imperial German Gov-

ernment and/or its successor or successors in the possession of the Treasurer of the United States.

(14) That of the aforesaid amount now due and owing to the United States from the Imperial German Government or its successor, sixteen million six hundred and twenty thousand four hundred and thirty-six dollars and five cents was due and owing prior to October 6, 1917, as will be shown by Exhibits C and D hereof, which are incorporated herein.

(15) That there has been filed on behalf of the United States of America with the Alien Property Custodian, a notice of claim under oath and in the form required by the Alien Property Custodian pursuant to the terms and provisions of the trading with the enemy act, the amendments thereto and the proclamations and Executive orders issued thereunder.

(16) That the United States of America avers upon information and belief that there are now pending in the Supreme Court of the District of Columbia certain suits, in which Thomas W. Miller, as Alien Property Custodian, and Frank White, as Treasurer of the United States, are parties defendant and the following persons and corporations are plaintiffs:

- 14 American National Bank of St. Paul.  
Equitable Trust Co., of N. Y.  
Middleton S. Borland, trustee in bankruptcy.  
August Heckscher.  
Henry G. Hilken.  
Mechanics Securities Corporation.  
Securities Corporation General.  
C. I. Stralem et al.  
Abraham L. Garbat.  
Anna Thalmann.  
Republic Trading Company.  
Jacob Kaufman.

And in all of the said suits the plaintiffs alleged creditors of the Imperial German Government, seek to recover out of the money held by the Treasurer of the United States as aforesaid large sums of money alleged to be owing to them.

(17) That the United States of America avers upon information and belief that there are now pending in this honorable court five suits in which Thomas W. Miller, as Alien Property Custodian, and Frank White, as Treasurer of the United States, are parties defendant and the following persons and corporations are plaintiffs, also alleged creditors of the Imperial German Government:

- Boatmen's bank.  
August A. Busch.  
Lilly Busch.  
Mercantile Trust Co.  
Northwestern Trust Co.

- (18) That aggregate amount sought to be recovered in the suits enumerated in paragraphs 10 and 11 is far in excess of the amount of money now held by the Treasurer of the United States as aforesaid.

(19) That upon information and belief the money in the possession of the Treasurer of the United States as set forth in paragraph 12 constitutes the only available funds of the Imperial German

Government or its successor, if such money ever belonged to the Imperial German Government, for the payment of the alleged indebtedness of the plaintiffs in the suits, enumerated in paragraphs 10 and 11, and the indebtedness of the United States or of other creditors not now before this court and that if the plaintiffs in the above-named suits are allowed to secure satisfaction of their claims out of the said funds to the exclusion of the United States, the United States will suffer an irreparable injury and there will be an undue preference as between creditors of the Imperial German Government or its successor or successors.

(20) That the United States, as well as certain citizens of the United States, are creditors of the Imperial German Government in matters other than those above set out, and that by treaty the Imperial German Government and its successor have agreed with the United States to make certain payments and restitutions, and that by later agreement a commission to be known as a "Mixed Claims Commission" was established to determine the liability and to fix the amount of the awards due from the Imperial German Government to the United States and its citizens and that no provision for payment was made by this agreement; that awards to the United States Government and to United States citizens have been made and are now being made; that this is the only fund now available belonging to the Imperial German Government from which awards can be satisfied or an indebtedness be paid; that if judgments are secured in the present suits and decrees satisfied the fund held by the Treasurer of the United States would be exhausted and there would be nothing of which the United States and other creditors could secure their said claims; that such process would be an inequitable preference of creditors.

Wherefore the United States of America respectfully prays:

- (1) That the bill of complaint be dismissed;
- (2) That the indebtedness of the United States set forth herein be determined by this court as a valid and existing indebtedness and that the Treasurer of the United States be ordered and directed to pay to the United States the amount thereof out of the funds as aforesaid or to the extent thereof;
- (3) That this court find and determine that the United States is entitled to a priority over other claims or is at least entitled to share prorata with other claimants in the distribution of the said fund;
- (4) That this court take jurisdiction of the claims of the United States against the Imperial German Government, and in the event that the funds aforesaid are determined to have been the funds of the Imperial German Government prior to the seizure thereof that this court order the payment to the United States out of the said funds of the aforesaid claim;
- (5) And for such additional and further relief as the exigencies of the case may require, and as to this honorable court may seem meet.

THE UNITED STATES OF AMERICA.

By HARLAN F. STONE,  
*Attorney General of the United States.*

17 DISTRICT OF COLUMBIA, ss:

Frank T. Hines, being duly sworn, deposes and says, that he has read the foregoing suggestion of the United States; that he knows

the facts therein alleged to be true except those states to be alleged upon information and belief and as to such facts he believes the [same to be true.

FRANK T. HINES,

Subscribed and sworn to before me this 10th day of April, 1924.

JOHN D. CUTTER,

Notary Public, D. C.

[SEAL.]

## EXHIBIT A

| Vessel                    | Policy No.  | Amount of claim paid by U. S. A. | Vessel             | Policy No. | Amount of claim paid by U. S. A. |
|---------------------------|-------------|----------------------------------|--------------------|------------|----------------------------------|
|                           | 9082-9092   |                                  | Dorothy B. Barrett |            |                                  |
|                           | 10103-10104 |                                  | (hull) -----       | 17941      | \$585.18                         |
| A. A. Raven -----         | 10140-10141 | \$2,881.82                       | "                  | 17941      | 585.18                           |
|                           | 10172-10175 |                                  | "                  | 17941      | 585.18                           |
|                           | 10181-10184 |                                  | "                  | 17941      | 585.18                           |
|                           | 10280       |                                  | "                  | 17941      | 6,437.03                         |
| A. B. Sherman (hull) ---  | 4660        | 15,859.21                        | "                  | 17941      | 5,266.65                         |
| "                         | 4660        | 1,071.00                         | "                  | 17941      | 292.61                           |
| Alamance -----            | 13520       | 126.27                           | "                  | 17941      | 585.18                           |
| "                         | 14181       | 6,499.06                         | "                  | 17941      | 585.18                           |
| "                         | 14249       | 25.00                            | "                  | 17941      | 292.61                           |
| "                         | 14250       | 30.00                            | "                  | 17941      | 585.18                           |
| Anna R. Heidritter        |             |                                  | "                  | 17941      | 585.18                           |
| (hull) -----              | 11850       | 3,592.23                         | "                  | 17941      | 1,170.37                         |
| A. Platt Andrew -----     | 20391       | 100.00                           | "                  | 17941      | 1,170.37                         |
| "                         | 20391       | 100.00                           | "                  | 17941      | 585.18                           |
| "                         | 20391       | 100.00                           | "                  | 17941      | 585.18                           |
| "                         | 20391       | 100.00                           | "                  | 17941      | 585.18                           |
| "                         | 20392       | 1,200.00                         | "                  | 17941      | 585.18                           |
| Argonaut (hull) -----     | 16227       | 516,500.00                       | "                  | 17941      | 585.18                           |
| "                         | 15203       | 15,760.25                        | "                  | 17941      | 1,170.37                         |
| "                         | 15277       | 13,813.75                        | "                  | 17941      | 1,170.37                         |
| "                         | 15370       | 35,000.00                        | "                  | 17941      | 585.18                           |
| Borinquen (hull) -----    | 1817        | 3,806.07                         | "                  | 17941      | 585.18                           |
| C. A. Canfield (hull) --- | 20122       | 15,898.63                        | "                  | 17941      | 585.18                           |
| "                         | 20122       | 250.00                           | "                  | 17941      | 292.61                           |
| Campana (hull) -----      | 6087        | 1,149,563.00                     | "                  | 17941      | 585.18                           |
|                           | 619-621     |                                  | "                  | 17941      | 585.18                           |
| Carib -----               | 627-628     | 235,850.00                       | "                  | 17941      | 585.18                           |
|                           | 701-705     |                                  | "                  | 17941      | 2,340.74                         |
| Chincha (hull) -----      | 15076       | 12,082.40                        | "                  | 17941      | 1,170.37                         |
| "                         | 15076       | 75.00                            | "                  | 17941      | 585.18                           |
| 19 Christiane (hull) -    | 6435        | 30,000.00                        | "                  | 17941      | 1,170.37                         |
| Cruiser (hull) -----      | 27052       | 3,000.00                         | "                  | 17941      | 292.61                           |
| Dirigo (hull) -----       | 2357        | 175,000.00                       | "                  | 17941      | 146.81                           |
| "                         | 3806        | 70,000.00                        | "                  | 17941      | 1,170.37                         |
| "                         | 3817        | 15,000.00                        | "                  | 17941      | 1,170.37                         |
| D. N. Luckenbach (hull)   | 10974       | 219,967.00                       | "                  | 17941      | 2,340.74                         |
| "                         | 10462       | 22,100.00                        | "                  | 17941      | 585.18                           |
| "                         | 10786       | 10.00                            | "                  | 17941      | 585.18                           |
| "                         | 10889       | 119,806.00                       | "                  | 17941      | 585.18                           |
| "                         | 10971       | 8,000.00                         | "                  | 17941      | 585.18                           |
| "                         | 10985       | 15,427.77                        | "                  | 17941      | 585.18                           |
| "                         | 11024       | 21,250.00                        | "                  | 17941      | 146.81                           |
| "                         | 11025       | 46,109.00                        | "                  | 17941      | 585.18                           |
| "                         | 11026       | 122,550.00                       | "                  | 17941      | 1,170.37                         |
| "                         | 11130       | 47,100.00                        | "                  | 17941      | 292.61                           |
| "                         | 11133       | 531,011.72                       | "                  | 17941      | 585.18                           |
| "                         | 11238       | 25,000.00                        | "                  | 17941      | 585.18                           |
| "                         | 13145       | 9,000.00                         | "                  | 17941      | 2,340.74                         |
| Dorothy B. Barrett        |             |                                  | "                  | 17941      | 585.18                           |
| (hull) -----              | 17941       | 585.18                           | "                  | 17941      | 585.18                           |
| "                         | 17941       | 1,170.37                         | "                  | 17941      | 1,170.37                         |
| "                         | 17941       | 1,170.37                         | "                  | 17941      | 292.61                           |
| "                         | 17941       | 1,170.37                         | "                  | 17941      | 1,170.37                         |
| "                         | 17941       | 585.18                           | "                  | 17941      | 585.18                           |
| "                         | 17941       | 585.18                           | "                  | 17941      | 585.18                           |
| "                         | 17941       | 585.18                           | "                  | 17941      | 1,170.37                         |
| "                         | 17941       | 585.18                           | "                  | 17941      | 1,170.37                         |
| "                         | 17941       | 585.18                           | "                  | 17941      | 585.18                           |
| "                         | 17941       | 585.18                           | "                  | 17941      | 292.61                           |
| "                         | 17941       | 585.18                           | "                  | 17941      | 585.18                           |
| "                         | 17941       | 585.18                           | "                  | 17941      | 585.18                           |
| "                         | 17941       | 585.18                           | "                  | 17941      | 7,022.20                         |
| "                         | 17941       | 585.18                           | "                  | 4711       | 449,973.10                       |
| "                         | 17941       | 585.18                           | Grace (hull) ----- | 4026       | 7,000.00                         |

| Vessel                     | Policy No.  | Amount of claim paid by U. S. A. | Vessel                  | Policy No. | Amount of claim paid by U. S. A. |
|----------------------------|-------------|----------------------------------|-------------------------|------------|----------------------------------|
| Grace (hull)               | 4027        | \$8,000.00                       | Kansas                  | 6355       | \$5,489.00                       |
| "                          | 4028        | 3,000.00                         | "                       | 6356       | 2,740.00                         |
| "                          | 4029        | 26,745.19                        | "                       | 6353       | 5,500.00                         |
| "                          | 4126        | 170,638.00                       | Kingsfisher (hull)      | 21910      | 49,800.00                        |
| "                          | 4616        | 700.00                           | Lewis Luckenbach (hull) | 7983       | 899,994.49                       |
| "                          | 4712        | 2,000.00                         | "                       | 7775       | 5,000.00                         |
| "                          | 4935        | 1,000.00                         | "                       | 9963       | 23,155.00                        |
| "                          | 4944        | 375.00                           | "                       | 10067      | 110,000.00                       |
| "                          | 5047        | 38,473.37                        | "                       | 10147      | 30,700.00                        |
| "                          | 5096        | 300.00                           | "                       | 10194      | 47,800.00                        |
| "                          | 4840        | 950.00                           | "                       | 10195      | 46,850.00                        |
| Greenbrier (hull)          | 801         | 50,000.00                        | "                       | 10196      | 47,300.00                        |
| Hildegard (hull)           | 5737        | 28,000.00                        | "                       | 10197      | 68,050.00                        |
| Hilorian (hull)            | 2665        | 275,000.00                       | "                       | 10271      | 4,500.00                         |
| "                          | 2708        | 20,000.00                        | "                       | 10272      | 10,600.00                        |
| "                          | 2787        | 576.00                           | "                       | 10284      | 15,000.00                        |
| "                          | 2937        | 7,844.00                         | "                       | 12162      | 1,404.50                         |
| "                          | 2938        | 3,963.00                         | Lizzie E. Dennison      | 2675-3678  | 756.83                           |
| "                          | 2939        | 4,073.00                         | Madrugada               | 19348      | 1,750.00                         |
| "                          | 2950        | 2,000.00                         | Magnus Manson (hull)    | 2567       | 75,000.00                        |
| "                          | 2991        | 13,732.00                        | Missourian (hull)       | 2501       | 999,777.58                       |
| "                          | 3000        | 10,600.00                        | Moreni (hull)           | 4682       | 775,000.00                       |
| "                          | 3001        | 500.00                           | "                       | 4683       | 135,000.00                       |
| "                          | 3027        | 3,175.00                         | "                       | 4684       | 578,700.00                       |
| "                          | 3027        | 160.00                           | Muriel (hull)           | 19279      | 11,950.00                        |
| "                          | 3027        | 425.00                           | New York (hull)         | 1833       | 910.34                           |
| "                          | 3027        | 85.00                            | "                       | 2578       | 9.04                             |
| "                          | 3027        | 1,895.00                         | "                       | 2702       | 126.50                           |
| "                          | 3067        | 750.00                           | "                       | 2702       | 76.58                            |
| "                          | 3149        | 8,000.00                         | Norlina (hull)          | 4781       | 6,300.45                         |
| "                          | 3191        | 9,500.00                         | "                       | 4781       | 100.00                           |
| "                          | 3157        | 3,300.00                         | Orleans (hull)          | 3640       | 475,000.00                       |
| "                          | 3185        | 14,413.53                        | "                       | 3641       | 5,486.01                         |
| "                          | 3210        | 6,083.00                         | "                       | 3680       | 51,000.00                        |
| "                          | 3211        | 7,402.00                         | "                       | 3689       | 23,253.00                        |
| "                          | 3212        | 3,087.00                         | "                       | 5854       | 5,700.00                         |
| "                          | 3301        | 14,000.00                        | "                       | 5866       | 200.00                           |
| "                          | 3731        | 7,500.00                         | "                       | 5871       | 12,000.00                        |
| "                          | 3328        | 850.00                           | "                       | 5872       | 2,500.00                         |
| "                          | 3380        | 5,800.00                         | "                       | 5907       | 1,700.00                         |
| "                          | 3387        | 1,050.00                         | "                       | 5908       | 2,300.00                         |
| "                          | 3390        | 475.00                           | "                       | 5909       | 10,000.00                        |
| "                          | 3391        | 1,650.00                         | "                       | 5946       | 1,600.00                         |
| "                          | 3494        | 570.00                           | "                       | 6049       | 7,574.00                         |
| "                          | 3495        | 160.00                           | "                       | 6050       | 8,500.00                         |
| "                          | 3496        | 355.00                           | 27                      | 6067       | 32,150.00                        |
| "                          | 3498        | 1,045.00                         | "                       | 6096       | 95,000.00                        |
| "                          | 3499        | 7,525.00                         | "                       | 6120       | 19,162.00                        |
| "                          | 3500        | 5,075.00                         | "                       | 6165       | 107,334.45                       |
| "                          | 3644        | 1,400.00                         | "                       | 6341       | 54,900.00                        |
| "                          | 3646        | 750.00                           | "                       | 6342       | 2,800.00                         |
| "                          | 3647        | 250.00                           | "                       | 6418       | 1,000.00                         |
| "                          | 3648        | 2,000.00                         | "                       | 6419       | 200.00                           |
| "                          | 3649        | 2,800.00                         | Percy Birdsall (hull)   | 2463       | 25,000.00                        |
| "                          | 3667        | 1,325.00                         | Petrolite (hull)        | 3833       | 475,000.00                       |
| "                          | 3682        | 3,500.00                         | Platuria (hull)         | 6086       | 565,000.00                       |
| "                          | 3732        | 2,000.00                         | Progress (hull)         | 19548      | 5,993.00                         |
| "                          | 3787        | 900.00                           | Portland (hull)         | 1106       | 1,064.84                         |
| "                          | 4664        | 62,560.00                        | Robert & Richard (hull) | 18252      | 11,950.00                        |
| "                          | 4664        | 200.00                           | Rush (hull)             | 20068      | 30,938.00                        |
| "                          | 4664        | 2,210.00                         | Rochester               | 10130      | 250.00                           |
| Jason (hull)               | 14651       | 799.24                           | "                       | 10130      | 250.00                           |
| "                          | 14651       | 20.00                            | "                       | 10130      | 160.30                           |
| J. L. Luckenbach (hull)    | 9594        | 10,860.71                        | "                       | 10130      | 226.50                           |
| "                          | 9594        | 75.00                            | "                       | 10130      | 100.00                           |
| "                          | 10277       | 35.12                            | "                       | 10130      | 100.00                           |
| "                          | 10370       | 1,076.92                         | "                       | 10130      | 66.15                            |
| "                          | 10486       | 105.37                           | "                       | 10130      | 500.00                           |
| "                          | 10590       | 3,520.38                         | "                       | 10130      | 250.00                           |
| "                          | 10748       | 25.22                            | "                       | 10130      | 100.00                           |
| "                          | 10881-10883 | 280.80                           | "                       | 10130      | 100.00                           |
| "                          | 10979-10983 | 678.37                           | "                       | 10130      | 100.00                           |
| 25 John D. Archbold (hull) | 4987        | 1,200,000.00                     | "                       | 10130      | 100.00                           |
| Kansas                     | 5093        | 62,874.00                        | "                       | 10130      | 100.00                           |
| "                          | 5470        | 22,500.00                        | "                       | 10130      | 100.00                           |
| "                          | 6140        | 2,474.00                         | Rockingham (hull)       | 2560       | 799,941.60                       |
| "                          | 6152        | 3,300.00                         | "                       | 27075      | 4,150.00                         |
| "                          | 6347        | 27,190.00                        | Schuylkill (hull)       | 9659       | 599,905.49                       |
| "                          | 6350        | 8,740.00                         | "                       | 9847       | 49,948.36                        |
| "                          | 6351        | 8,740.00                         | "                       | 10285      | 3,136.00                         |
| "                          | 6352        | 5,500.00                         | "                       | 10291      | 3,000.00                         |
| "                          | 6354        | 5,500.00                         | "                       | 10523      | 10,930.29                        |

12 UNITED STATES *vs.* EQUITABLE TRUST CO. OF NEW YORK

| Vessel                   | Policy No. | Amount of claim paid by U. S. A. | Vessel                   | Policy No. | Amount of claim paid by U. S. A. |
|--------------------------|------------|----------------------------------|--------------------------|------------|----------------------------------|
| Schuykill (hull)         | 10524      | \$2,342.48                       | Stanley M. Seaman (hull) | 19323      | \$2,812.50                       |
| "                        | 10525      | 14,500.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10526      | 14,500.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10528      | 34,633.19                        | "                        | 19323      | 1,875.00                         |
| "                        | 10529      | 7,426.49                         | "                        | 19323      | 3,750.00                         |
| "                        | 10682      | 30,000.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10700      | 300.00                           | "                        | 19323      | 1,875.00                         |
| "                        | 10706      | 21,000.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10720      | 1,350.00                         | "                        | 19323      | 3,750.00                         |
| "                        | 10721      | 1,675.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10799      | 23,750.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10942      | 15,200.00                        | "                        | 19323      | 3,750.00                         |
| "                        | 11160      | 194,678.00                       | "                        | 19323      | 1,875.00                         |
| "                        | 10816      | 3,500.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10891      | 10,900.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10892      | 10,350.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10893      | 6,500.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10894      | 9,750.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10895      | 8,300.00                         | "                        | 19323      | 2,812.50                         |
| "                        | 10896      | 8,600.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10897      | 8,250.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10898      | 8,200.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10899      | 28,000.00                        | "                        | 19323      | 937.50                           |
| "                        | 10900      | 30,000.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10901      | 52,000.00                        | "                        | 19323      | 937.50                           |
| "                        | 10902      | 12,000.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10903      | 12,000.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10904      | 12,000.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10905      | 12,000.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10906      | 10,000.00                        | "                        | 19323      | 3,750.00                         |
| "                        | 10907      | 13,729.00                        | "                        | 19323      | 937.50                           |
| "                        | 10908      | 4,064.00                         | "                        | 19323      | 2,812.50                         |
| "                        | 10909      | 1,692.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10910      | 5,142.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10911      | 5,315.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10912      | 10,530.00                        | "                        | 19323      | 3,750.00                         |
| "                        | 10913      | 24,840.00                        | "                        | 19323      | 937.50                           |
| "                        | 10914      | 8,731.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10915      | 6,440.00                         | "                        | 19323      | 1,875.00                         |
| "                        | 10916      | 18,281.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10917      | 5,837.00                         | "                        | 19323      | 937.50                           |
| "                        | 10920      | 1,721.00                         | "                        | 19323      | 937.50                           |
| "                        | 10943      | 64,000.00                        | "                        | 19323      | 1,875.00                         |
| "                        | 10948      | 140.00                           | "                        | 19323      | 1,875.00                         |
| "                        | 10950      | 87.87                            | "                        | 19323      | 1,875.00                         |
| "                        | 10951      | 300.00                           | Suruga (hull)            | 13037      | 150,000.00                       |
| "                        | 10953      | 1,010.63                         | "                        | 13027      | 214,503.18                       |
| "                        | 10954      | 380.00                           | "                        | 13037      | 858.50                           |
| Stanley M. Seaman (hull) | 19323      | 1,875.00                         | "                        | 13037      | 9.10                             |
| "                        | 19323      | 14,062.00                        | St. Louis (hull)         | 4075       | 12,879.24                        |
| "                        | 19323      | 2,812.00                         | Wm. H. Clifford (hull)   | 6459       | 50,000.00                        |
| "                        | 19323      | 3,750.00                         | Wm. H. Starbuck (hull)   | 20421      | 2,133.33                         |
| "                        | 19323      | 1,875.00                         | "                        | 20421      | 1,066.67                         |
| "                        | 19323      | 1,875.00                         | Wilmore (hull)           | 8961       | 1,375,000.00                     |
| "                        | 19323      | 937.00                           |                          |            |                                  |
| "                        | 19323      | 1,875.00                         | Total                    |            | 17,424,229.22                    |

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## EXHIBIT B

| Vessel          | Policy No.  | Amount of claim paid by U. S. A. | Vessel          | Policy No. | Amount of claim paid by U. S. A. |
|-----------------|-------------|----------------------------------|-----------------|------------|----------------------------------|
| Alamanco        | 13520       | \$95,100.00                      | A. Platt Andrew | 20391      | \$100.00                         |
| "               | 13787-13793 | 216,267.69                       | "               | 20391      | 100.00                           |
| "               | 13814       | 8,080.31                         | "               | 20391      | 100.00                           |
| "               | 13815       | 15,000.00                        | "               | 20391      | 100.00                           |
| "               | 13830       | 9,184.18                         | "               | 20391      | 100.00                           |
| "               | 13879       | 16,500.00                        | "               | 20391      | 100.00                           |
| "               | 13879       | 4,997.19                         | "               | 20391      | 100.00                           |
| "               | 13966       | 117,800.00                       | "               | 20391      | 100.00                           |
| "               | 14249       | 29,563.34                        | "               | 20391      | 100.00                           |
| "               | 14250       | 701,251.00                       | "               | 20391      | 100.00                           |
| A. Platt Andrew | 20391       | 100.00                           | "               | 20391      | 100.00                           |
| "               | 20391       | 100.00                           | "               | 20391      | 100.00                           |
| "               | 20391       | 100.00                           | "               | 20391      | 100.00                           |
| "               | 20391       | 100.00                           | "               | 20391      | 100.00                           |



## UNITED STATES VS. EQUITABLE TRUST CO. OF NEW YORK 13

| Vessel          | Policy No. | Amount of<br>claim paid<br>by U. S. A. | Vessel           | Policy No. | Amount of<br>claim paid<br>by U. S. A. |
|-----------------|------------|--|------------------|------------|--|
| A. Piatt Andrew | 20391      | \$100. 00                              | Argonaut         | 16297      | \$85,212. 32                           |
| "               | 20391      | 100. 00                                | "                | 16298      | 83,382. 62                             |
| Argonaut        | 15124      | 20,980. 00                             | "                | 16299      | 27,250. 83                             |
| "               | 15125      | 21,416. 00                             | Dirigo           | 3187       | 18,943. 00                             |
| "               | 15126      | 21,678. 00                             | "                | 3428       | 4,300. 00                              |
| "               | 15127      | 43,684. 00                             | D. N. Luckenbach | 10766      | 41,147. 97                             |
| "               | 15286      | 111,002. 00                            | "                | 10800      | 7,036. 48                              |
| "               | 15287      | 175,198. 00                            | "                | 10876      | 12,229. 11                             |
| "               | 15288      | 27,913. 00                             | "                | 10876      | 9,296. 24                              |
| "               | 15289      | 66,008. 00                             | "                | 10876      | 1,063. 69                              |
| "               | 15307      | 63,882. 00                             | "                | 11002      | 92,030. 00                             |
| "               | 15308      | 4,503. 00                              | "                | 11040      | 12,500. 00                             |
| "               | 15309      | 32,849. 00                             | "                | 11103      | 1,297. 02                              |
| "               | 15310      | 76,280. 00                             | "                | 11240      | 23,780. 53                             |
| "               | 15311      | 25,596. 00                             | Grace            | 3979       | 8,500. 00                              |
| "               | 15331      | 20,750. 00                             | "                | 3997       | 7,500. 00                              |
| "               | 15375      | 89,000. 00                             | "                | 3998       | 1,400. 00                              |
| "               | 15376      | 28,600. 00                             | "                | 4018       | 10,000. 00                             |
| "               | 15457      | 99,500. 00                             | "                | 4034       | 18,000. 00                             |
| "               | 15458      | 26,600. 00                             | "                | 4042       | 3,800. 00                              |
| "               | 15463      | 28,050. 00                             | "                | 4128       | 9,500. 00                              |
| "               | 15464      | 32,300. 00                             | "                | 4129       | 9,500. 00                              |
| "               | 15465      | 29,400. 00                             | "                | 4130       | 7,277. 00                              |
| "               | 15466      | 27,800. 00                             | "                | 4131       | 3,030. 00                              |
| "               | 15548      | 31,000. 00                             | "                | 4190       | 3,000. 00                              |
| "               | 15549      | 91,030. 00                             | "                | 4191       | 7,500. 00                              |
| "               | 15550      | 118,800. 00                            | "                | 4251       | 2,800. 00                              |
| "               | 15551      | 58,100. 00                             | "                | 4265       | 2,000. 00                              |
| "               | 15552      | 142,550. 00                            | "                | 4266       | 40,000. 00                             |
| "               | 15553      | 57,500. 00                             | "                | 4320       | 35,000. 00                             |
| "               | 15554      | 110,600. 00                            | "                | 4321       | 9,340. 00                              |
| "               | 15555      | 30,350. 00                             | "                | 4321       | 2,300. 00                              |
| "               | 15566      | 26,619. 21                             | "                | 4402       | 5,000. 00                              |
| "               | 15567      | 33,755. 84                             | "                | 4403       | 5,000. 00                              |
| "               | 15568      | 17,940. 69                             | "                | 4404       | 8,000. 00                              |
| "               | 15569      | 16,633. 75                             | "                | 4439       | 2,750. 00                              |
| "               | 15570      | 6,843. 60                              | "                | 4507       | 22,000. 00                             |
| "               | 15571      | 48,356. 69                             | "                | 4508       | 3,000. 00                              |
| "               | 15586      | 31,905. 00                             | "                | 4583       | 6,000. 00                              |
| "               | 15589      | 84,206. 38                             | "                | 4671       | 1,000. 00                              |
| "               | 15590      | 31,867. 07                             | "                | 4693       | 22,000. 00                             |
| "               | 15591      | 31,999. 10                             | "                | 4724       | 4,500. 00                              |
| "               | 15592      | 31,351. 01                             | "                | 4818       | 410. 00                                |
| "               | 15593      | 32,161. 08                             | "                | 4819       | 1,650. 00                              |
| "               | 15594      | 32,727. 55                             | "                | 4820       | 1,150. 00                              |
| "               | 15595      | 65,380. 00                             | "                | 4856       | 3,850. 00                              |
| "               | 15596      | 33,080. 00                             | "                | 4891       | 35,000. 00                             |
| "               | 15622      | 60,166. 65                             | "                | 4892       | 32,000. 00                             |
| "               | 15623      | 58,479. 52                             | "                | 4933       | 4,833. 19                              |
| "               | 15725      | 29,641. 34                             | "                | 4936       | 4,500. 00                              |
| "               | 15726      | 149,276. 59                            | "                | 4981       | 460. 00                                |
| "               | 15727      | 26,442. 00                             | "                | 5259       | 20,000. 00                             |
| "               | 15777      | 112,821. 94                            | Harwood Palmer   | 3120       | 15,150. 00                             |
| "               | 15778      | 29,490. 37                             | "                | 3120       | 51,350. 00                             |
| "               | 15780      | 31,627. 88                             | Hilonian         | 2802       | 1,952. 00                              |
| "               | 15781      | 31,509. 07                             | "                | 2984       | 2,000. 00                              |
| "               | 15782      | 29,085. 30                             | "                | 2990       | 12,334. 00                             |
| "               | 15783      | 59,399. 84                             | "                | 2992       | 35,425. 00                             |
| "               | 15784      | 61,639. 02                             | "                | 2996       | 6,600. 00                              |
| "               | 15785      | 59,929. 02                             | "                | 3027       | 660. 00                                |
| "               | 15786      | 31,050. 00                             | "                | 3027       | 230. 00                                |
| "               | 15787      | 28,850. 00                             | "                | 3027       | 1,580. 00                              |
| "               | 15820      | 14,870. 00                             | "                | 3027       | 1,310. 00                              |
| "               | 15821      | 11,705. 00                             | "                | 3027       | 4,190. 59                              |
| "               | 15822      | 58,230. 00                             | "                | 3027       | 865. 00                                |
| "               | 15823      | 15,476. 00                             | "                | 3089       | 1,590. 00                              |
| "               | 15841      | 69,861. 00                             | "                | 3090       | 1,000. 00                              |
| "               | 15851      | 28,111. 04                             | "                | 3091       | 900. 00                                |
| "               | 15852      | 27,279. 35                             | "                | 3092       | 1,100. 00                              |
| "               | 15853      | 54,511. 18                             | "                | 3093       | 1,800. 00                              |
| "               | 15854      | 54,487. 41                             | "                | 3094       | 1,400. 00                              |
| "               | 15954      | 27,160. 53                             | "                | 3181       | 3,110. 00                              |
| "               | 15955      | 27,493. 22                             | "                | 3182       | 5,365. 60                              |
| "               | 15993      | 42,628. 82                             | "                | 3183       | 8,240. 00                              |
| "               | 15994      | 14,114. 92                             | "                | 3195       | 35,000. 00                             |
| "               | 15995      | 28,847. 98                             | "                | 3310       | 800. 00                                |
| "               | 16012      | 14,162. 00                             | "                | 3330       | 1,100. 00                              |
| "               | 16013      | 29,000. 00                             | "                | 3381       | 285. 00                                |
| "               | 16014      | 29,400. 00                             | "                | 3382       | 1,100. 00                              |
| "               | 16068      | 28,150. 00                             | "                | 3383       | 1,450. 00                              |
| "               | 16295      | 26,143. 50                             | "                | 3384       | 1,250. 00                              |
| "               | 16296      | 58,408. 22                             | "                | 3385       | 925. 00                                |



## 14 UNITED STATES VS. EQUITABLE TRUST CO. OF NEW YORK

| Vessel                | Policy No.  | Amount of<br>claim paid<br>by U. S. A. | Vessel                  | Policy No. | Amount of<br>claim paid<br>by U. S. A. |
|-----------------------|-------------|--|-------------------------|------------|--|
| Hilsonian.....        | 3386        | \$690.00                               | Lizzie E. Dennison..... | 3675-8     | \$60,461.42                            |
| "                     | 3388        | 1,825.00                               | Madrugada.....          | 19348      | 71,527.05                              |
| "                     | 3389        | 140.00                                 | Magnus Manson.....      | 2401       | 93,960.00                              |
| "                     | 3417        | 24,719.52                              | Navajo.....             | 4985.-8    | 922.67                                 |
| "                     | 3497        | 280.00                                 | New York.....           | 2490       | 662.56                                 |
| "                     | 3645        | 2,800.00                               | "                       | 2490       | 16,992.24                              |
| "                     | 3670        | 600.00                                 | "                       | 2493       | 339.23                                 |
| "                     | 3680        | 80.00                                  | "                       | 2702       | 143.33                                 |
| "                     | 3681        | 25.00                                  | Orleans.....            | 5519       | 3,750.00                               |
| 39 J. L. Luckenbach   | 10266       | 109.95                                 | "                       | 5719       | 4,700.00                               |
| "                     | 10267       | 161.48                                 | "                       | 5720       | 1,575.00                               |
| "                     | 10301       | 1,880.41                               | "                       | 5721       | 40,200.00                              |
| "                     | 10333       | 27.45                                  | "                       | 5761       | 18,300.00                              |
| "                     | 10346       | 592.87                                 | "                       | 5829       | 3,460.00                               |
| "                     | 10365       | 182.60                                 | 42                      | 5852       | 11,000.00                              |
| "                     | 10377       | 25.25                                  | "                       | 5855       | 2,200.00                               |
| "                     | 10437       | 453.78                                 | "                       | 5856       | 400.00                                 |
| "                     | 10463       | 14.82                                  | "                       | 5861       | 1,300.00                               |
| "                     | 10481       | 145.57                                 | "                       | 5862       | 1,300.00                               |
| "                     | 10490       | 63.12                                  | "                       | 5863       | 400.00                                 |
| "                     | 10494-10495 | 42.64                                  | "                       | 5864       | 1,500.00                               |
| "                     | 10496       | 92.56                                  | "                       | 5865       | 5,200.00                               |
| "                     | 10614       | 31.60                                  | "                       | 5867       | 2,000.00                               |
| "                     | 10618-10619 | 143.71                                 | "                       | 5868       | 1,200.00                               |
| "                     | 10690       | 1,217.86                               | "                       | 5869       | 400.00                                 |
| "                     | 10751       | 104.41                                 | "                       | 5870       | 600.00                                 |
| "                     | 10753       | 78.69                                  | "                       | 5943       | 55,550.00                              |
| Kansas.....           | 5130        | 279,154.17                             | "                       | 6808       | 35,000.00                              |
| "                     | 5483        | 1,200.00                               | "                       | 6810       | 78,910.00                              |
| "                     | 5484        | 12,150.00                              | Rochester.....          | 10130      | 100.00                                 |
| "                     | 5485        | 12,700.00                              | "                       | 10130      | 100.00                                 |
| "                     | 5523        | 1,300.00                               | "                       | 10130      | 100.00                                 |
| "                     | 5524        | 4,750.00                               | "                       | 10130      | 100.00                                 |
| "                     | 5525        | 7,000.00                               | "                       | 10130      | 100.00                                 |
| "                     | 6153        | 2,700.00                               | "                       | 10130      | 100.00                                 |
| "                     | 6168        | 6,250.00                               | "                       | 10130      | 100.00                                 |
| "                     | 6301        | 5,600.00                               | "                       | 10130      | 100.00                                 |
| "                     | 6302        | 650.00                                 | "                       | 10130      | 100.00                                 |
| "                     | 6346        | 162,080.00                             | "                       | 10130      | 100.00                                 |
| 40 "                  | 6348        | 27,720.00                              | "                       | 10130      | 100.00                                 |
| "                     | 6349        | 13,272.00                              | "                       | 10130      | 50.00                                  |
| Lewis Luckenbach..... | 7773        | 189,000.00                             | 43                      | 10130      | 100.00                                 |
| "                     | 7774        | 8,000.00                               | "                       | 10130      | 100.00                                 |
| "                     | 8043        | 73,500.00                              | "                       | 10130      | 100.00                                 |
| "                     | 9324        | 5,063.18                               | "                       | 10130      | 100.00                                 |
| "                     | 9325        | 67,964.05                              | "                       | 10130      | 100.00                                 |
| "                     | 9655        | 2,200.00                               | "                       | 10130      | 100.00                                 |
| "                     | 9665        | 14,467.59                              | "                       | 10130      | 100.00                                 |
| "                     | 9666        | 8,052.60                               | "                       | 10130      | 100.00                                 |
| "                     | 9667        | 3,544.78                               | Rockingham.....         | 2508       | 15,150.00                              |
| "                     | 9688        | 109,000.00                             | "                       | 2525       | 6,500.00                               |
| "                     | 9772        | 1,924.98                               | "                       | 2481       | 24,691.84                              |
| "                     | 9772        | 4,392.38                               | "                       | 2481       | 819.91                                 |
| "                     | 9772        | 1,464.86                               | "                       | 2481       | 1,074.20                               |
| "                     | 9772        | 1,918.40                               | "                       | 2481       | 22,440.32                              |
| "                     | 9773        | 4,808.00                               | "                       | 2485       | 4,200.00                               |
| "                     | 9827        | 18,000.00                              | "                       | 2582       | 2,200.00                               |
| "                     | 10040       | 2,985.00                               | "                       | 2615       | 16,000.00                              |
| "                     | 10041       | 2,985.00                               | "                       | 2615       | 11,000.00                              |
| "                     | 10042       | 7,255.85                               | "                       | 2650       | 4,000.00                               |
| "                     | 10043       | 15,343.44                              | "                       | 3188       | 7,363.13                               |
| "                     | 10044       | 31,141.00                              | "                       | 3189       | 508.69                                 |
| "                     | 10045       | 11,103.00                              | "                       | 3208       | 350,000.00                             |
| "                     | 10046       | 18,568.00                              | Schuykill.....          | 9290       | 3,000.00                               |
| "                     | 10056       | 6,600.00                               | "                       | 9559       | 1,800.00                               |
| "                     | 10070       | 31,800.00                              | "                       | 9735       | 15,200.00                              |
| "                     | 10071       | 5,750.00                               | "                       | 9944       | 6,258.56                               |
| "                     | 10072       | 14,200.00                              | "                       | 9945       | 5,330.00                               |
| "                     | 10073       | 60.00                                  | "                       | 9957       | 3,325.07                               |
| "                     | 10074       | 28,000.00                              | "                       | 10008      | 6,897.00                               |
| "                     | 10075       | 13,000.00                              | "                       | 10009      | 1,200.00                               |
| "                     | 10076       | 650.00                                 | "                       | 10060      | 1,271.97                               |
| "                     | 10146       | 2,700.00                               | 44                      | 10060      | 1,200.00                               |
| "                     | 10152-3     | 110,903.30                             | "                       | 10060      | 4,200.00                               |
| "                     | 10153       |  | "                       | 10060      | 6,825.00                               |
| "                     | 10185-6     |  | "                       | 10060      | 2,275.00                               |
| "                     | 10184       | 61,980.00                              | "                       | 10060      | 1,128.03                               |
| "                     | 10187       | 10,708.00                              | "                       | 10060      | 1,200.00                               |
| "                     | 10188       | 31,105.00                              | "                       | 10060      | 1,200.00                               |
| "                     | 10211       | 15,000.00                              | "                       | 10060      | 3,764.43                               |
| "                     | 10270       | 7,200.00                               | "                       | 10060      | 4,200.00                               |
| "                     | 10400       | 300.00                                 | "                       | 10060      | 3,300.00                               |
| "                     | 16568       | 67,232.61                              | "                       | 10060      | 1,000.00                               |

| Vessel    | Policy No. | Amount of claim paid by U. S. A. | Vessel                   | Policy No. | Amount of claim paid by U. S. A. |
|-----------|------------|----------------------------------|--------------------------|------------|----------------------------------|
| Schuykill | 10127      | \$2,000.00                       | Schuykill                | 10594      | \$6,600.00                       |
| 45        | 10230      | 11,800.00                        | 45                       | 10594      | 7,830.94                         |
| 46        | 10290      | 1,341.05                         | 46                       | 10594      | 142.03                           |
| 47        | 10296      | 25,700.00                        | 47                       | 10645      | 14,000.00                        |
| 48        | 10297      | 14,000.00                        | 48                       | 10646      | 17,200.00                        |
| 49        | 10304      | 23,665.23                        | 49                       | 10648      | 3,000.00                         |
| 50        | 10334      | 6,000.00                         | 50                       | 10649      | 12,400.00                        |
| 51        | 10335      | 9,000.00                         | 51                       | 10651      | 3,000.00                         |
| 52        | 10360      | 7,550.00                         | 52                       | 10671      | 5,900.00                         |
| 53        | 10341      | 3,000.00                         | 53                       | 10671      | 2,100.00                         |
| 54        | 10369      | 19,207.50                        | 54                       | 10671      | 700.00                           |
| 55        | 10371      | 6,000.00                         | 55                       | 10671      | 5,600.00                         |
| 56        | 10388      | 9,800.00                         | 56                       | 10683      | 1,000.00                         |
| 57        | 10394-5    | 4,917.80                         | 57                       | 10686      | 4,500.00                         |
| 58        | 10402-3    | 19,900.00                        | 58                       | 10696      | 5,800.00                         |
| 59        | 10405      | 600.00                           | 59                       | 10697      | 1,900.00                         |
| 60        | 10435      | 11,939.55                        | 60                       | 10698      | 1,800.00                         |
| 61        | 10436      | 4,300.00                         | 61                       | 10699      | 584.61                           |
| 62        | 10448      | 24,000.00                        | 62                       | 10701      | 3,000.00                         |
| 63        | 10473      | 4,000.00                         | 63                       | 10702      | 8,000.00                         |
| 64        | 10474      | 4,500.00                         | 64                       | 10714      | 816.00                           |
| 65        | 10475      | 21,912.00                        | 65                       | 10714      | 6,300.00                         |
| 66        | 10476      | 4,019.00                         | 66                       | 10714      | 4,057.97                         |
| 67        | 10477      | 6,645.00                         | 67                       | 10718      | 4,300.00                         |
| 68        | 10478      | 2,235.00                         | 68                       | 10724      | 26,500.00                        |
| 69        | 10479      | 1,325.00                         | 69                       | 10725      | 4,950.00                         |
| 70        | 10480      | 1,461.00                         | 70                       | 10763      | 396.03                           |
| 71        | 10501      | 600.00                           | 71                       | 10791      | 5,289.27                         |
| 72        | 10507      | 16,200.00                        | 72                       | 10792      | 35,500.00                        |
| 73        | 10508      | 5,049.00                         | 73                       | 11242      | 2,000.00                         |
| 74        | 10509      | 8,013.25                         | 74                       | 10811      | 19,467.54                        |
| 75        | 10510      | 4,974.91                         | 75                       | 10822      | 8,560.00                         |
| 76        | 10511      | 1,991.00                         | 76                       | 10920      | 78,039.57                        |
| 77        | 10512      | 6,900.00                         | 77                       | 10933      | 13,100.00                        |
| 78        | 10513      | 5,600.00                         | 78                       | 10941      | 19,000.00                        |
| 79        | 10514      | 1,424.11                         | 79                       | 10949      | 937.27                           |
| 80        | 10515      | 5,800.00                         | 80                       | 10952      | 600.00                           |
| 81        | 10527      | 4,383.44                         | 81                       | 10964      | 24,649.13                        |
| 82        | 10552      | 550.00                           | 82                       | 10965      | 4,950.27                         |
| 83        | 10601      | 6,000.00                         | 83                       | 11019      | 2,596.35                         |
| 84        | 10602      | 2,300.00                         | 84                       | 11261      | 20,000.00                        |
| 85        | 10594      | 2,290.00                         | 85                       | 11284      | 32,285.00                        |
| 86        | 10594      | 4,000.00                         | Stanley M. Seaman (hull) | 19323      | 1,875.00                         |
| 87        | 10594      | 8,076.92                         | Total                    |            | 9,209,215.65                     |
| 88        | 10594      | 2,000.00                         |                          |            |                                  |
| 89        | 10594      | 1,740.00                         |                          |            |                                  |
| 90        | 10594      | 1,160.06                         |                          |            |                                  |

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## EXHIBIT C

| Vessel             | Policy No. | Amount of claim paid by U. S. A. | Vessel               | Policy No. | Amount of claim paid by U. S. A. |
|--------------------|------------|----------------------------------|----------------------|------------|----------------------------------|
| Wm. P. Frye (hull) | 31         | \$10,000.00                      | Healdton (hull)      | 1902       | \$48,888.82                      |
| 49                 | 98         | 1,550.00                         | Edwin R. Hunt (hull) | 2364       | 49,776.67                        |
| Evelyn (hull)      | 636        | 100,000.00                       | New York (hull)      | 1833       | 164,051.49                       |
| 50                 | 637        | 241,961.57                       | Vacuum (hull)        | 2326       | 999,976.60                       |
| Carib (hull)       | 576        | 22,235.56                        |                      |            | 2,338,440.71                     |
| Illinois (hull)    | 2270       | 250,000.00                       |                      |            |                                  |
| Healdton (hull)    | 1878       | 450,000.00                       |                      |            |                                  |

## EXHIBIT D

| Vessel                   | Policy<br>No. S. I. | Name of insured                                  | Amount of<br>claim paid<br>by U. S. A. |
|--------------------------|---------------------|--|--|
| Almance.....             | 624                 | Carrasco, Pio M.....                             | \$1,500.00                             |
| ".....                   | 624                 | Fialic, Laurie.....                              | 1,500.00                               |
| ".....                   | 624                 | Fujiwara, Shintaro.....                          | 1,500.00                               |
| ".....                   | 624                 | Ito, L. (Lyujiro or Ryujiro).....                | 1,500.00                               |
| ".....                   | 624                 | Utsunomiya, Magolchiro.....                      | 1,500.00                               |
| Atlantic Sun.....        | 724                 | Daniels, Charles T., jr.....                     | 1,500.00                               |
| ".....                   | 724                 | Glass, Harry H. (injury).....                    | 1,500.00                               |
| ".....                   | 724                 | Hertoge, Henri Clement.....                      | 2,520.00                               |
| ".....                   | 724                 | Johnson, David (detention).....                  | 2,083.34                               |
| Campana.....             | 163                 | Oliver, Albert (detention).....                  | 4,050.00                               |
| Chincha.....             | 811                 | Falt, Karl Victor.....                           | 1,500.00                               |
| ".....                   | 811                 | Ogami, Kurakichi.....                            | 1,500.00                               |
| ".....                   | 811                 | Yamamoto, B.....                                 | 1,500.00                               |
| D. N. Luckenbach.....    | 286                 | Chronis, Demosthenes (Demivis).....              | 1,200.00                               |
| ".....                   | 286                 | Evangelacos, Denis.....                          | 1,500.00                               |
| ".....                   | 286                 | Olsen, Trygve Frederik.....                      | 2,520.00                               |
| ".....                   | 286                 | Pennes, Albert A.....                            | 2,280.00                               |
| ".....                   | 286                 | Villianos, Peter (Panagatos, Villianos D.).....  | 1,500.00                               |
| Florence H.....          | 906                 | Amiot, Manuel Alvarez y.....                     | 1,500.00                               |
| ".....                   | 906                 | Beans, John.....                                 | 2,520.00                               |
| ".....                   | 906                 | Bentley, Edmund.....                             | 1,500.00                               |
| ".....                   | 906                 | Butterfield, Fred. J.....                        | 4,500.00                               |
| ".....                   | 906                 | Collins, Martin L.....                           | 1,500.00                               |
| ".....                   | 906                 | Cudahy, Howard L.....                            | 2,160.00                               |
| 50 ".....                | 906                 | Geldart, Leonard Brown.....                      | 1,500.00                               |
| ".....                   | 906                 | Goodwin, Carl L.....                             | 1,500.00                               |
| ".....                   | 906                 | Kato, S.....                                     | 1,500.00                               |
| ".....                   | 906                 | Lamoreaux, Joseph L., jr.....                    | 1,500.00                               |
| ".....                   | 906                 | Matsumoto, T.....                                | 1,500.00                               |
| ".....                   | 906                 | Miyake, Tetsuichiro.....                         | 1,800.00                               |
| ".....                   | 906                 | Mori, (Moni) Chukichi.....                       | 1,500.00                               |
| ".....                   | 906                 | Novoa, Oscar S. (A).....                         | 1,500.00                               |
| ".....                   | 906                 | Pausche, John (Jahn Arnold).....                 | 1,500.00                               |
| ".....                   | 906                 | Overington, Russell.....                         | 2,340.00                               |
| ".....                   | 906                 | Randle, Arthur W.....                            | 1,500.00                               |
| ".....                   | 906                 | Rondoni, Basilio.....                            | 1,500.00                               |
| ".....                   | 906                 | Santos, C. F. (Canuto Ferreira don).....         | 1,500.00                               |
| ".....                   | 906                 | Scardace, Carlo.....                             | 1,500.00                               |
| ".....                   | 906                 | Simpson, Charles.....                            | 1,500.00                               |
| ".....                   | 906                 | Tamura, Noboru.....                              | 1,500.00                               |
| ".....                   | 906                 | Umetsu, S.....                                   | 1,500.00                               |
| ".....                   | 906                 | Wasnak, Joseph Andrew.....                       | 1,500.00                               |
| ".....                   | 906                 | West, Percy D. (injury).....                     | 750.00                                 |
| ".....                   | 906                 | Yamagata, H.....                                 | 1,500.00                               |
| ".....                   | 906                 | Yamaguchi, Suyetaro.....                         | 1,500.00                               |
| ".....                   | 906                 | Toshisawa, Eimatsu.....                          | 1,500.00                               |
| Freida.....              | 1463                | Ciechowaki, John Joseph.....                     | 1,500.00                               |
| Frederic R. Kellogg..... | 1754                | Carlsen, John.....                               | 1,500.00                               |
| ".....                   | 1754                | Hamilton, Albert Myron (Johnson, Samuel L.)..... | 2,100.00                               |
| ".....                   | 1754                | Kramer, James.....                               | 1,875.00                               |
| 51 ".....                | 1754                | Jorgensen, Axel Albert.....                      | 4,500.00                               |
| ".....                   | 1754                | Souza, (Souza or Souga) Francisco de.....        | 1,500.00                               |
| J. L. Luckenbach.....    | 250                 | Saunders, Drew B. (injury).....                  | 2,250.00                               |
| Kansan.....              | 8                   | Aguirre, Florentino.....                         | 1,500.00                               |
| ".....                   | 8                   | Hanan, Charlie.....                              | 1,500.00                               |
| ".....                   | 8                   | Kua, Alexander P.....                            | 1,500.00                               |
| ".....                   | 8                   | Murphy, Jeremiah M.....                          | 2,700.00                               |
| Barge Lansford.....      | 4819                | Ainsleigh, Charles (injury).....                 | 958.33                                 |
| Lewis Luckenbach.....    | 223                 | Anderssan (Anderson) Lennart.....                | 1,500.00                               |
| ".....                   | 223                 | Erickson, John.....                              | 1,950.00                               |
| ".....                   | 223                 | Hassell, George Benjamin.....                    | 1,500.00                               |
| ".....                   | 223                 | McCants, L. S.....                               | 2,310.00                               |
| ".....                   | 223                 | Nissenson, Irving J.....                         | 1,500.00                               |
| ".....                   | 223                 | Peterson, Wallace.....                           | 1,500.00                               |
| ".....                   | 223                 | Watkins, J. B.....                               | 4,500.00                               |
| Motano.....              | 51                  | Gilow, Edward.....                               | 1,500.00                               |
| ".....                   | 51                  | Gleason, Lannie.....                             | 1,500.00                               |
| ".....                   | 51                  | Gregory, Harry.....                              | 1,500.00                               |
| ".....                   | 51                  | Harwood, W.....                                  | 1,500.00                               |
| ".....                   | 51                  | Hauggaard, Julius C.....                         | 1,980.00                               |
| ".....                   | 51                  | Larsen, Karl.....                                | 1,500.00                               |
| ".....                   | 51                  | Lohse, Renaldo R.....                            | 2,250.00                               |
| ".....                   | 51                  | Lundquist, Karl David.....                       | 1,500.00                               |
| ".....                   | 51                  | Madsen, Marius Michael.....                      | 1,500.00                               |
| ".....                   | 51                  | Nordgren, John Isidor.....                       | 1,500.00                               |
| ".....                   | 51                  | Roslund, Walter.....                             | 1,500.00                               |
| ".....                   | 51                  | Thorne, Vernon S.....                            | 1,500.00                               |
| 52 ".....                | 51                  | Tuber, Robert.....                               | 1,500.00                               |
| ".....                   | 51                  | Williams, Rubin.....                             | 1,500.00                               |
| ".....                   | 51                  | Williams, Russell A.....                         | 1,500.00                               |
| ".....                   | 51                  | Winter, Joseph.....                              | 1,500.00                               |

## UNITED STATES U.S. EQUITABLE TRUST CO. OF NEW YORK 17

| Vessel         | Policy<br>No. S. I. | Name of Insured                                     | Amount of<br>claim paid<br>by U. S. A. |
|----------------|---------------------|---|--|
| O. B. Jennings | 1925                | Bastin, Rene (detention).....                       | \$908. 14                              |
| "              | 1925                | Scott, James Henry.....                             | 1,500. 00                              |
| Owasco         | 503                 | Garcia, Jesus.....                                  | 1,500. 00                              |
| "              | 503                 | Jacobson, Albert.....                               | 1,500. 00                              |
| "              | 503                 | Watts, Nathan R. (injury).....                      | 972. 00                                |
| Platuria       | 310                 | Escriche, Alberto Jarque (Gargie, Alberto).....     | 1,500. 00                              |
| "              | 310                 | Halpern, L.....                                     | 1,500. 00                              |
| "              | 310                 | Hellstrom, Gustav F. (injury).....                  | 1,500. 00                              |
| "              | 310                 | Jones, James.....                                   | 1,620. 00                              |
| "              | 310                 | Leslie, John.....                                   | 4,050. 00                              |
| "              | 310                 | Whittier, Harold W.....                             | 1,500. 00                              |
| Rochester      | 567                 | Ampuero, Antonio Avendano.....                      | 1,500. 00                              |
| "              | 567                 | Bulgarea, George.....                               | 750. 00                                |
| "              | 567                 | Diaz, Augustin Mariguez.....                        | 1,500. 00                              |
| "              | 567                 | Finset, Christian.....                              | 2,520. 00                              |
| "              | 567                 | Gonzalez, Juan.....                                 | 1,500. 00                              |
| "              | 567                 | Helm, Verner L.....                                 | 1,500. 00                              |
| "              | 567                 | Hellstrom, Nils Ragnar Casian (B).....              | 1,500. 00                              |
| "              | 567                 | Hinnman, William B.....                             | 1,500. 00                              |
| "              | 567                 | Kokeritz, Erik.....                                 | 5,000. 00                              |
| "              | 567                 | Madsen, Thor.....                                   | 1,500. 00                              |
| "              | 567                 | Margeli, Benjamin.....                              | 1,500. 00                              |
| "              | 567                 | Ohman, Ernest.....                                  | 1,500. 00                              |
| "              | 567                 | Petersen, Axel.....                                 | 1,500. 00                              |
| "              | 567                 | Wheeler, Rex S.....                                 | 1,500. 00                              |
| San Sabal      | 2783                | Annoni, Natali.....                                 | 1,500. 00                              |
| "              | 2783                | Birdsall, Bergen G.....                             | 3,600. 00                              |
| "              | 2783                | Chambers, Esau Emanuel.....                         | 1,500. 00                              |
| "              | 2783                | Cobb, Harry.....                                    | 2,175. 00                              |
| "              | 2783                | Cyntje, Juancito Assencion (Cyntyte, Juaneto).....  | 1,500. 00                              |
| "              | 2783                | Domingo, Legideus Maria (Rosal, Theodore).....      | 1,500. 00                              |
| "              | 2783                | Downie, John L.....                                 | 1,500. 00                              |
| "              | 2783                | Henrique, Theofil Confesor (Henriquez, Philip)..... | 1,500. 00                              |
| "              | 2783                | Henriquez, Pol (Pel).....                           | 1,500. 00                              |
| "              | 2783                | Lange, Pablo De.....                                | 1,500. 00                              |
| "              | 2783                | Lapiento, Don Domingo.....                          | 1,500. 00                              |
| "              | 2783                | Lazcano, Rosamel.....                               | 1,500. 00                              |
| "              | 2783                | Longueiro, Manuel.....                              | 1,500. 00                              |
| "              | 2783                | Lorenzo, Angel.....                                 | 1,500. 00                              |
| "              | 2783                | McBride, William J.....                             | 2,550. 00                              |
| "              | 2783                | Maceiva, Jose M.....                                | 1,500. 00                              |
| "              | 2783                | Miller, Frank.....                                  | 1,950. 00                              |
| "              | 2783                | Mothersill (Manning) Stephen.....                   | 1,500. 00                              |
| "              | 2783                | Mosquera, Manuel.....                               | 1,500. 00                              |
| "              | 2783                | Peterson, Pablo.....                                | 1,500. 00                              |
| "              | 2783                | Quintans, Manuel Nolla (Noya).....                  | 1,500. 00                              |
| "              | 2783                | Ray, Arthur.....                                    | 1,500. 00                              |
| "              | 2783                | Richards, Ralph.....                                | 1,725. 00                              |
| "              | 2783                | Robinson, Joseph.....                               | 1,500. 00                              |
| "              | 2783                | Terkelsen, Harry (Bjorn).....                       | 1,500. 00                              |
| "              | 2783                | Villanueva, Julio Sesar.....                        | 1,500. 00                              |
| "              | 2783                | Werners, George.....                                | 1,500. 00                              |
| "              | 2783                | West, Fred.....                                     | 1,500. 00                              |
| St. Helens     | 603                 | Bodin, Viktor Leonard.....                          | 1,500. 00                              |
| "              | 603                 | Carroll, Bridges.....                               | 1,500. 00                              |
| "              | 603                 | Dahlberg, Peter.....                                | 1,500. 00                              |
| "              | 603                 | Danielson, Theodor.....                             | 1,500. 00                              |
| "              | 603                 | Ferreira, Antonio.....                              | 1,500. 00                              |
| "              | 603                 | Freris, Joseph (Freyer James).....                  | 1,500. 00                              |
| "              | 603                 | Golden, Frank.....                                  | 1,500. 00                              |
| "              | 603                 | Gudmundsen, Gudmund.....                            | 1,500. 00                              |
| "              | 603                 | Head, Richard James.....                            | 1,500. 00                              |
| "              | 603                 | Jakobsson, J. A.....                                | 1,500. 00                              |
| "              | 603                 | Jennings, John Wilberforce.....                     | 1,500. 00                              |
| "              | 603                 | Johnson, Bernt.....                                 | 1,500. 00                              |
| "              | 603                 | Johnson, B. F.....                                  | 1,500. 00                              |
| "              | 603                 | Johnson, Hugh Marcus.....                           | 1,500. 00                              |
| "              | 603                 | Lopes, Jose (Josa) Miquel.....                      | 1,500. 00                              |
| "              | 603                 | Maguregui, Victoriano.....                          | 1,500. 00                              |
| "              | 603                 | Mayoral, Pedro Alvaro Lopez.....                    | 1,500. 00                              |
| "              | 603                 | Movilla, Jose M.....                                | 1,500. 00                              |
| "              | 603                 | Nutt, Joseph.....                                   | 1,500. 00                              |
| "              | 603                 | Ochando, Ramon N.....                               | 1,500. 00                              |
| "              | 603                 | Rocosa, Ramon Rocosa y.....                         | 1,500. 00                              |
| "              | 603                 | Saunders, William Henry.....                        | 1,971. 00                              |
| 53 Tyler       | 1088                | Carro, Gregorio.....                                | 1,500. 00                              |
| "              | 1088                | Kawamoto, Fukumatsu.....                            | 1,500. 00                              |
| "              | 1088                | Knowlton, Clarence.....                             | 1,500. 00                              |
| "              | 1088                | Mears, E. W.....                                    | 2,280. 00                              |
| "              | 1088                | Murera, Jose Rodriguez.....                         | 1,500. 00                              |
| "              | 1088                | Posse, Fernando.....                                | 1,500. 00                              |
| Total          |                     |   | 272,667. 81                            |

*Motion to strike out suggestion*

Filed May 21, 1924

\* \* \* \* \*

Now comes the plaintiff, The Equitable Trust Company of New York, by and through its attorneys, and moves this honorable court to strike out the suggestion of the United States of America filed herein by its Attorney General upon the following grounds:

1. Because the facts therein alleged are immaterial and irrelevant to this cause, and that the said suggestion is insufficient in law to maintain a claim on behalf of the United States.

2. Because the said suggestion alleges no facts which, if true, constitute a defense, set-off, or counterclaim to the cause of action alleged in the bill of complaint.

3. Because any alleged indebtedness of the United States of America or of other creditors of the Imperial German Government, as set forth in said suggestion, is not now before this court, and is therefore not entitled to be set up as a defense to the plaintiff's claim in this suit.

THE EQUITABLE TRUST COMPANY OF NEW YORK,  
By McKENNEY & FLANNERY, *Its Attorneys of Record.*

*Order*

Filed May 21, 1924

\* \* \* \* \*

This cause having come on to be heard upon the motion of the plaintiff heretofore filed herein to strike out the suggestion of the United States of America filed herein by the Attorney General of the United States, and the court having considered the said suggestion and the facts therein brought to its attention, it is  
57 this 21st day of May, A. D., 1924.

Adjudged and ordered that the said motion to strike out suggestion be and the same is hereby granted.

WENDELL P. STAFFORD,  
*Justice.*

I consent as to form.

DEAN HILL STANLEY,  
*Counsel for Defendants.*

From the foregoing order the United States of America notes an appeal in open court to the Court of Appeals of the District of Columbia.

WENDELL P. STAFFORD,  
*Justice.*

*Assignment of errors*

Filed May 22, 1924

\* \* \* \* \*

Now comes the United States of America by Harlan F. Stone, Attorney General of the United States of America, and files the following assignment of errors upon which it will rely upon its appeal from the order and decree made by this honorable court on the 21st day of May, 1924, in the above-entitled cause:

*First:* That the court erred in ordering that the motion to strike out the suggestion of the United States of America filed in the said cause by the Attorney General of the United States of America on the 11th day of April, 1924, be granted.

58 *Second:* That the court erred in not overruling the motion to strike out the suggestion of the United States of America filed in the said cause by the Attorney General of the United States of America on the 11th day of April, 1924.

*Third:* That the court erred in not granting the prayers contained in the said suggestion of the United States of America filed by the Attorney General of the United States of America on the 11th day of April, 1924.

*Fourth:* That the court erred in not adjudging, ordering, and decreeing that the United States of America is a "person" within the meaning of that word as used in section 9 of the trading with the enemy act as amended.

*Fifth:* That the court erred in not adjudging, ordering, and decreeing that the claim of the United States set forth in the suggestion of the United States of America filed as aforesaid is a proper claim, within the meaning of section 9 of the trading with the enemy act as amended.

*Sixth:* That the court erred in not adjudging, ordering, and decreeing that the United States of America is entitled to have paid out of any money or other property held by the Alien Property Custodian or the Treasurer of the United States, which money or other property was at the time of the receipt thereof by the Alien Property Custodian or the Treasurer of the United States, the money or other property of the Imperial German Government, the amount of its debt against the Imperial German Government, as set forth in the said suggestion.

*Seventh:* That the court erred in not adjudging, ordering, and decreeing that any claim of the United States against the Imperial German

Government is entitled to priority of payment out of any money or other property held by the Alien Property Custodian, and/or the Treasurer of the United States, which at the date of the receipt thereof by the said Custodian, and/or the Treasurer, was the money or other property of the Imperial German Government.

All of which is respectfully submitted.

UNITED STATES OF AMERICA,  
By HARLAN F. STONE,  
*Attorney General of the United States of America.*

Service of a copy of the above acknowledged this 22d day of May, 1924.

McKENNEY & FLANNERY,  
*Attorney for the Plaintiff.*

*Designation of record*

Filed May 22, 1924

\* \* \* \* \*

The clerk will please prepare a transcript of the record on appeal in the above-entitled case, and include therein the following:

Bill of complaint.

Suggestion filed by the United States of America by the Attorney General of the United States of America on the 11th day of April, 1924.

Motion to strike out the suggestion of the United States of America filed by the Attorney General of the United States of America.

Order granting motion to strike out the suggestion of the United States of America filed by the Attorney General of the United States of America with the notation of appeal thereon.

Assignment of errors.

This designation of record.

UNITED STATES OF AMERICA,  
By HARLAN F. STONE,

*Attorney General of the United States of America.*

60 Service of a copy of the above acknowledged this 22d day of May, 1924.

McKENNEY & FLANNERY,  
*Attorney for Plaintiff.*

61 Supreme Court of the District of Columbia

UNITED STATES OF AMERICA, } ss:  
*District of Columbia,*

I, Morgan H. Beach, clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 60, both inclusive, to be a true and correct transcript of the record, according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 42270 in Equity, wherein The Equitable Trust Company of New York is plaintiff and Thomas Woodnutt Miller, Alien Property Custodian, and Frank White, Treasurer of the United States, are defendants, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 3rd day of September, 1924.

[SEAL.]

EW

MORGAN H. BEACH,  
*Clerk.*

(Indorsed on cover:) District of Columbia Supreme Court. No. 4207. United States of America, Appellant, *vs.* The Equitable Trust Company of New York, a corporation.

(Stamped on cover:) Court of Appeals, District of Columbia. Filed Sept. 4, 1924. Henry W. Hodges, Clerk.

## 21 In Court of Appeals of District of Columbia

\* \* \* \* \*

No. 4207 UNITED STATES OF AMERICA, APPELLANT, *vs.* THE EQUITABLE TRUST COMPANY OF NEW YORK, A CORPORATION.

No. 4208 THOMAS WOODNUTT MILLER, ALIEN PROPERTY CUSTODIAN, AND FRANK WHITE, TREASURER OF THE UNITED STATES, APPELLANTS, *vs.* THE EQUITABLE TRUST COMPANY OF NEW YORK, A CORPORATION.

*Argument of cause*

January 7, 1925

The argument in the above entitled causes was commenced by Mr. Dean H. Stanley, attorney for the appellants, and was concluded by Mr. F. D. McKenney, attorney for the appellee. On motion the appellants are allowed to file a reply brief herein.

## 22 In Court of Appeals of the District of Columbia

*Opinion*

[Title omitted.]

23 Before ROBB and VAN ORSDEL, Associate Justices; SMITH, Judge, United States Court of Customs Appeals.

Mr. Justice VAN ORSDEL delivered the opinion of the court:

These cases are here on appeal from final decrees of the Supreme Court of the District of Columbia against appellants White, as Treasurer of the United States, and Miller, as Alien Property Custodian, defendants below, in which White, as Treasurer, is required, in cases numbered 4202, 4204, 4206, 4208, 4217, 4219, 4221, 4223, 4225, 4227, and 4229, to pay to the plaintiff in each case certain sums of money out of funds in the Treasury of the United States seized and held by him as property of the Imperial German Government.

These suits were brought in the Supreme Court of the District of Columbia by the holders of certain notes against the Imperial German Government, issued and sold by Germany prior to the entrance of the United States into the war. The notes were payable in American currency on April 1, 1917, five days prior to the declaration of war between the United States and Germany. Upon payment of interest in advance the maturity of the notes was extended to April 1, 1918.

Concededly the notes sued on constituted a debt within the meaning of the provisions of sec. 9 of the trading with the enemy act as amended, 42 Stats. 1511. It is averred in the bills of the respective plaintiffs that the Alien Property Custodian now has in his possession or to his credit in the Treasury of the United States, funds of the Imperial German Government which were paid and delivered to him under the provisions of the trading with the enemy act, and which are available by law and sufficient in quantity to pay plaintiffs' claims both principal and interest.



Defendants, Miller and White, filed motions to dismiss the bills of complaint upon the grounds that the Imperial German Government, or its successor, is a necessary party to the suits, and that pursuant to the terms and provisions of the trading with the enemy act and the treaties between the United States and Germany, the United States is the owner of the moneys which plaintiffs seek in these suits to subject to the payment of their claims. The motions to dismiss were overruled and defendants answered admitting the citizenship and residence of the plaintiffs; that plaintiffs are "persons" within the meaning of sec. 9 of the trading with the enemy act, and that the Imperial German Government is an enemy within the meaning of the act. But as to other allegations in the bills, strict proof was demanded.

After answers were filed by defendants White and Miller, the Attorney General filed in each case a suggestion as to certain  
24 rights of the United States, asserting in substance that the German Government, as a result of the war, is heavily indebted to the United States; that if the plaintiffs herein, and certain other claimants enumerated, are permitted to satisfy their claims against the fund now held in the Treasury of the United States to the account of the German Government, the said fund would be exhausted and there would be nothing from which the United States and other creditors could secure the payment of their claims, and that such a course would lead to an inequitable preference of creditors. It is then prayed on behalf of the United States that the bills be dismissed; that the claim of the United States be declared a valid and existing indebtedness which the Treasurer should be ordered to pay out of the fund aforesaid; that the court award the United States priority over other claims, or that it be entitled to share pro rata with other claimants in the distribution of the fund; that the court take jurisdiction of the claim of the United States against the Imperial German Government, and that the court order the claim of the United States paid out of said fund.

The plaintiffs filed motions to strike out the suggestion upon the grounds, among others, that the suggestion put in issue matters existing between the German Government and the United States, neither of which are proper parties to these suits; that the United States is not authorized to file such notice of claims under sec. 9 of the trading with the enemy act; that the court is without jurisdiction to determine the right of the United States in respect of the claims set up against the Imperial German Government, and that it appears on the face of the suggestion that the claims asserted have been settled between the United States and Germany by treaty, and are therefore not matters within the jurisdiction of the court, but are matters for diplomatic intercourse and settlement between the respective sovereigns.

The court sustained the motions to strike, from which the United States has appealed in cases numbered 4201, 4203, 4205, 4207, 4216, 4218, 4220, 4222, 4224, 4226, and 4228.

The cases were heard on bill and answer, and certain evidence adduced establishing that there was on June 13, 1924, to the account of the Imperial German Government in the Treasury of the United States \$2,715,571, more than sufficient to satisfy the plaintiff's claims. This sum was accounted for by record entries of the Treasury De-

partment showing a fund of \$515,571, deposited by the Alien Property Custodian with the Treasurer, in Trust No. 555-Special, "Imperial German Government"; and the sum of \$2,200,000, transferred by order of the custodian March 9, 1923, from Trust No. 9322, "Undisclosed enemy No. 1," to Trust No. 555-Special, "Imperial German Government."

Three propositions are involved in these appeals:

First, is the Imperial German Government a necessary party to these suits?

Second, is the evidence adduced sufficient to establish the existence in the Treasury of the United States of a fund belonging to the Imperial German Government against which these claims may be asserted?

Third, has the United States the right to set up its claim against Germany as a defense in these suits, in order that it may lay claim to the funds in the Treasury which had been seized as funds of the Imperial German Government?

We come now to the consideration of the necessity of making the German Nationals, successor of the Imperial German Government, a party defendant in the present cases. The seizure of any enemy's property is justified as an act of war. Two courses were open to the United States, in respect of property belonging to an enemy or ally of enemy, either to seize the property and conserve it for future disposition, or to confiscate it. *Miller v. United States*, 11 Wall. 268. In either case the action of the Government would be sustained. Indeed the property of any enemy or ally of enemy, seized under the trading with the enemy act, so far as its return is concerned, is in a state of confiscation, since Congress specifically reserved to itself its future disposition. The property here in question, concededly enemy property, would be, but for sec. 9, the property of the United States, subject to whatever disposition Congress might deem proper. The seizure of the funds in question divested the German Government of all title or interest therein, and their subsequent disposition is a matter with which it is not concerned. *Munich Reinsurance Co. v. First Reinsurance Co. of Hartford*, 300 Fed. 345.

Section 9 of the trading with the enemy act is a remedial measure, affording the method by which property wrongfully seized may be restored to its proper owner; or by which debts "owing from an enemy or ally of enemy" may be recovered out of the property seized. To this extent, the United States has relinquished all claims it might otherwise have asserted under confiscation. Recovery under the act may be had either through executive allowance or by decree of a court. In all proceedings, however, against the funds so seized and held, the Alien Property Custodian or the Treasurer of the United States, or both, are made by the statute the proper defendants. The Alien Property Custodian stands in the relation of a common law trustee. His appearance as defendant furnishes all the protection to which the parties are entitled.

The silence of the trading with the enemy act, as to the right or necessity of an enemy or ally of enemy to be made a party defendant, is significant. The act in sec. 2, among other things, defines the term "enemy" as follows: "The word 'enemy,' as used herein, shall be deemed to mean, for the purposes of such trading and of this act

\* \* \*. (b) The government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof." The act further defines the meaning of the term "person" and the meaning and significance of the words "United States." The German Government, therefore, was an enemy of the United States, within the terms of the trading with the enemy act.

The object of sec. 9 was to give a speedy and efficient remedy to nonenemy persons against losses and inconvenience liable  
25 to result from the strict enforcement of the act. To have required the joinder of the enemy-owner, as a party defendant in each instance, would have amounted to a denial of remedy to non-enemy creditors. This situation was well known and manifest to Congress. It may well be that an enemy-owner, for example the German Government in the present cases, could, upon request, be made a party defendant. *McVeigh v. United States*, 11 Wall. 259. But this could only be done at the request of the sovereign itself. No power resides in Congress or in the courts to require the sovereignty of Germany to become a party defendant in any action. This could only occur through the act of the sovereign itself.

It follows, therefore, that inasmuch as the German Government can not be brought into court, except at its own election, the court would be without jurisdiction of these cases, and the act would be a mere nullity. It is elementary that debts due from a friendly nation can not be enforced in the courts of the creditor nation.

In proper sequence the contention that the United States is a proper party to these suits may next be considered. This is urged substantially upon two grounds: First, that the United States may enforce a prior claim against this money in the hands of the defendants in order to protect itself against losses sustained during the war. Second, that the fund should be held by the defendants to satisfy claims arising under the provisions of the treaty of peace made between Germany and the United States on August 25, 1921, which embraces all persons, citizens of the United States, who suffered damages and injuries to person or property at the hands of the Imperial German Government.

Again, the silence of the trading with the enemy act, as to the necessity of the United States being made a party to suits brought under sec. 9, and the specific designation of the Alien Property Custodian or the Treasurer or both as defendants, is significant. It is nowhere provided in the act that enemy-funds in the possession of the defendants may be subjected to the payment of claims due the United States. Nor do we think that the United States is a "person," as mentioned in sec. 9 of the act, or such a party as can take advantage of the provisions thereof. It may be suggested that if, as contended, the United States can assert a claim in the courts against this fund, the action should be brought by the United States directly, it can not be asserted through intervention by way of suggestion, or by motion to dismiss in the present cases. In other words, the United States has no such interest in the fund here in question as can be affected by the present suits. The fund has been set aside by the act for the satisfaction of such claims as may be legally brought against it by claimants other than the United States. The United States has relinquished any interest it may have had in the

fund in favor of creditors of the enemy, in this instance the German Government. The claims here asserted, are, therefore, not against the United States. "While the suits, as held in *Banco Mexicano v. Deutsche Bank*, 263 U. S. 591, 603 (affirming 289 Fed. 924), is one against the United States, the claim was not against it. No debt was alleged to be owing from it to the plaintiff." *Miller v. Robertson*, 000 U. S. 000. (October Term, 1924.) In other words, the rule of sovereign immunity from liability does not apply.

The contention that in addition to plaintiffs' claims there are outstanding claims being asserted against the fund in question, which in the aggregate amount to \$3,257,945, or more than the amount of the fund now in the Treasury, is of no importance. Section 9 (a), as amended, provides, among other things, as follows: "If suit shall be so instituted, then such money or property shall be retained in the custody of the Alien Property Custodian, or in the Treasury of the United States, as provided in this act, and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant, or by the Alien Property Custodian, or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated."

It is clear from the terms of the act that a suit brought under it is not in the nature of a creditor's bill calling for a marshalling of claims, nor does it give any preference to one creditor over another, or call for a sharing pro rata with other creditors in the funds against which the claims are made. This court has no jurisdiction over the outstanding judgments, nor is it concerned with the ability of the fund in the Treasury to meet the various claims against it. The contentions of the Government in these particulars might have been provided for by Congress, but they were not, and the court must apply the law as it finds it.

Coming now to the question of the sufficiency of the evidence adduced by plaintiffs to sustain the judgments of the court in the respective cases, there appears in paragraph 8 of the bill of complaint the following allegation: "That the Alien Property Custodian now has in his possession or to his credit in the Treasury of the United States funds of the Imperial German Government, which were paid and delivered to him under the provisions of said trading with the enemy act, as amended, and which are available by law, sufficient to pay the entire indebtedness, both principal and past due interest owing to complainant."

The defendants, answering this paragraph, alleged that they had no knowledge or information sufficient to form a belief with respect to the averments of paragraph 8 of the bill of complaint, and, therefore, demand strict proof thereof. In support of this averment of the plaintiffs, the answer filed by the defendants *Miller and White* in the case of the *Mechanics Securities Corporation v. Frank White*, as Treasurer of the United States, and *Thomas W. Miller*, as Alien Property Custodian, then pending in the Supreme Court of the District of Columbia, and submitted on this appeal as No. 4195, was offered and received in evidence over objection and exception by defendants. The answer in that case, made under oath by the defendants, set forth that the custodian had turned over to the

26     Treasurer \$515,571, which was deposited in Trust No. 555-Special, "Imperial German Government"; and that there had been transferred to the same trust \$2,200,000 from Trust No. 9322, "Unknown enemy No. 1," making a total credit to Trust No. 555-Special, "Imperial German Government," of \$2,715,571. The status of these respective trusts was also shown by true copies of record entries from the Treasury Department, which were put in evidence.

This was unquestionably competent evidence and sufficient in character to establish a *prima facie* case as to the existence of funds seized from the Imperial German Government, and held in the Treasury against which the claims of plaintiffs could be asserted. As was said in *Pope v. Allis*, 115 U. S. 363, 370: "When a bill or answer in equity or a pleading in an action at law is sworn to by the party, it is competent evidence against him in another suit as a solemn admission by him of the truth of the facts stated. *Studdy v. Sanders*, 2 D. & R. 347; *De Whelpdale v. Milburn*, 5 Price 485; *Central Bridge v. Lowell*, 15 Gray 106; *Bliss v. Nichols*, 12 Allen 443; *Elliott v. Hayden*, 104 Mass. 180; *Cook v. Barr*, 44 N. Y. 156; *Taylor on Evidence*, sec. 1753, 7th ed.; *Greenleaf Evidence*, secs. 552, 555."

The truth of these statements is not controverted. The only attempt made by defendants to rebut this testimony was the offer of a copy of a letter, dated March 14, 1924, from the Alien Property Custodian to the Secretary of the Treasury, attempting to withdraw the instruction sent to the Secretary of the Treasury, under date of March 10, 1923, directing the transfer of the \$2,200,000 from Trust No. 9322 to Trust No. 555-Special, "Imperial German Government." The court sustained the objection of plaintiffs to the admission of this letter in evidence, to which ruling defendants excepted. It is contended by plaintiffs that it was beyond the power of the custodian to thus shift the fund during the pendency of these suits. Counsel for defendants on the contrary state in their brief that "the plaintiff in the cause must rely as to the two million two hundred thousand dollars above upon the instructions given by the custodian after the money had been seized as belonging to an unknown enemy. If the custodian had authority to change the ownership of the money at the time referred to in the original answer, he had just as much authority to change it and order it held to the credit of the unknown enemy again."

We are not impressed by this contention. The transfer of the \$2,200,000 to Trust No. 555-Special, "Imperial German Government," on March 8, 1923, was a determination by the custodian of the enemy ownership of the fund. It amounted to a finding after investigation, that the fund should be held "for, by, on account of, or on behalf of, or for the benefit of" the Imperial German Government. There was no change of the ownership by the custodian when the fund was transferred on March 8, 1923, since there is nothing in the record to indicate that the ownership up to that date had been specifically determined. The custodian, then exercising the power imposed upon the President, determined specifically the enemy ownership of this fund. In further support of the lack of evidential effect of the letter of March 14, 1924, it contains no reasons, nor is it supported by any evidence, which challenges or affects the correctness of the former determination of enemy ownership.

It was not within the power of the custodian to defeat the present actions, during their pendency in the court below, by his attempted transfer of the fund back to "unknown enemy Trust No. 9322." In case of suit, the statute itself provides for the retention of the money or property in the custody of the Alien Property Custodian or the Treasurer of the United States, to await the final judgment or decree. It is clear, therefore, that the custodian having determined the question of enemy ownership, and having designated the fund in the Treasury to which it belonged, could not, without at least good and sufficient reasons, by the mere transfer of this fund, so change the status of the property in litigation, as to destroy claimants's cause of action while suit was pending.

In the appeals against the Equitable Trust Company of New York, Numbers 4207 and 4208, counsel for appellee company challenge the right of the United States to prosecute an appeal in these cases under sec. 226 of the Code of the District of Columbia providing that "any party aggrieved by any final order, judgment, or decree of the Supreme Court of the District" may appeal to this court. The objection is based upon the ground that the United States "was not a party in any sense or aspect of the case in the court below, and it never at any time sought to have itself made a party by intervention or otherwise." Consequently there is no final order or decree from which it may appeal. We think this objection to the right of appeal by the United States must be sustained. No petition was filed in the court below by the United States for right to intervene, nor can the suggestion filed be treated as a petition for intervention. The order striking the suggestion from the files was a mere interlocutory order, which could not furnish the basis for a separate appeal. The attempt here made by the United States is to conduct separate appeals, and thereby avoid any connection with the original cases.

The lack of necessity for intervention by the United States is apparent. The Alien Property Custodian and the Treasurer are made defendants by the express terms of the act, and as such have power to defend the interests of the United States. This they have attempted to do in the original cases by motion to dismiss for lack of proper parties. In support of this motion they could have advanced all the reasons for making the United States a party defendant, that have been suggested in the paper sought to be filed in the court below. The appeals of the United States in these cases will be dismissed.

Counsel have likewise challenged the right of appeal to this court by the Alien Property Custodian and the Treasurer, on the ground that the trading with the enemy act is a special statute and in the absence of specific provision for appeal, appeal can not be prosecuted under sec. 226 of the District Code. The act provides specifically for appeals in cases arising under it from the district courts of the United States to the Circuit Courts of Appeals, but makes no provision specifically for an appeal to this court from the judgment or decree in a suit instituted in the Supreme Court of the District of Columbia.

Without stopping to review this contention at length, we are of opinion that it was the intention of Congress that a right of appeal should be retained in all cases brought under the act, and inasmuch



as many of these cases have been appealed and considered by this court, and a number of them on further appeal considered by the Supreme Court of the United States, without this objection having been heretofore interposed, we will refuse now to interrupt this course of procedure. We hold, therefore, that the right of appeal in these cases is within the provisions of sec. 226 of the District Code.

In the aforesaid cases in which the United States is appellant, the appeals are dismissed. In the cases in which Frank White, Treasurer of the United States, and Thomas W. Miller, Alien Property Custodian, are appellants, the decrees are affirmed with costs.

28            In Court of Appeals of District of Columbia

[Title omitted.]

*Judgment*

March 2, 1925

Appeal from the Supreme Court of the District of Columbia. This cause came on to be heard on the transcript of the record from the Supreme Court of the District of Columbia and was argued by counsel. On consideration whereof, it is now here ordered, adjudged, and decreed by this court that this appeal be, and the same is hereby, dismissed.

Per Mr. Justice VAN ORSDIEL.

MARCH 2, 1925.

Judge JAMES F. SMITH of the U. S. Court of Customs Appeals sat in this case in the place of Mr. Chief Justice MARTIN.

29            In Court of Appeals of District of Columbia

[Title omitted.]

*Petition for appeal*

Filed May 2, 1925

Now comes your petitioner, the United States of America by John G. Sargent, Attorney General of the United States, appellant in the above-entitled cause, and shows unto the court that on the 2nd day of March, 1925, a decision was rendered and a decree entered against it herein, in which decision and decree, to its damage and prejudice, certain errors were committed, as will appear from the assignment of errors filed herewith.

Your petitioner further shows that the decree of the Court of Appeals herein is subject to review by the Supreme Court under the provisions of paragraphs fifth and sixth of section 250 of the Judicial Code in that the existence and scope of the power and duty of an officer of the United States, to wit the Alien Property Custodian, is drawn in question, and that this is a case in which the construction of a law of the United States is drawn in

question by the defendants, to wit, the trading with the enemy act as amended.

Wherefore, your petitioner prays the allowance of an appeal to the Supreme Court of the United States for the correction of the errors complained of, and that a transcript of the record, proceedings and papers in this cause, duly authenticated, may be sent to the said Supreme Court, and it appearing that this appeal is brought up by the United States, that no bond, obligation or security shall be required from the United States to answer in damages or costs, and that the said appeal shall operate as a supersedeas.

THE UNITED STATES OF AMERICA,  
By JOHN G. SARGENT,

*Attorney General of the United States.*

Service of a copy of the above petition for appeal received this 1st day of May, 1925.

McKENNEY & FLANNERY,  
*Attorneys for the Appellees.*

31 In Court of Appeals of District of Columbia

[Title omitted.]

*Assignment of errors*

Filed May 2, 1925

And now comes the United States of America by John G. Sargent, Attorney General of the United States, the appellant herein, and says that in the record and proceedings of the Court of Appeals in the above-entitled cause and in the rendition of the final decree therein manifest error has intervened, to the prejudice of said appellant in this, to wit:

(1) The court erred in ordering, adjudging, and decreeing that the appeal of the United States of America from the order entered in the Supreme Court of the District of Columbia on the 24th day of May, 1924 be dismissed.

(2) The court erred in deciding and adjudging that the United States is not a "person" as mentioned in section 9 of the trading with the enemy act or such a party as can take advantage of  
32 the provisions thereof.

(3) The court erred in adjudging and deciding that the United States has no such interest in the fund in question as can be affected by the present suit.

(4) The court erred in deciding and adjudging that the fund in question has been set aside by the trading with the enemy act for the satisfaction of such claims as may be legally brought against it by claimants other than the United States.

(5) The court erred in deciding and adjudging that the United States has relinquished any interest it may have had in the fund in favor of creditors of the enemy, in this instance the German Government.

(6) The court erred in not deciding and adjudging that the United States is a "person" within the meaning of section 9 trading with the enemy act as amended.



(7) The court erred in not deciding and adjudging that the United States is entitled to assert its claims against the fund in question.

(8) The court erred in adjudging and deciding that the order striking the suggestion of the United States from the files was a mere interlocutory order which could not furnish the basis for a separate appeal.

(9) The court erred in deciding and adjudging that the United States was not a party in any sense or aspect of the case in the court below, and it never, at any time, sought to have itself made a party by intervention or otherwise.

33 (10) The court erred in not ordering, adjudging, and decreeing that the order of the Supreme Court of the District of Columbia striking out the suggestion of the United States be reversed and the cause remanded with instructions that the motion to strike out the suggestion of the United States be overruled.

UNITED STATES OF AMERICA,

By JOHN G. SARGENT,

*Attorney General of the United States, Its Attorney.*

Service acknowledged this 1st day of May, 1925.

McKENNEY & FLANNERY,

*Attorney for Appellee.*

[File indorsement omitted.]

34 In Court of Appeals of District of Columbia

[Title omitted.]

*Order allowing appeal*

May 4, 1925

On consideration of the petition for the allowance of an appeal to the Supreme Court of the United States in the above-entitled cause, it is ordered by the court that said appeal be, and the same is hereby, allowed as prayed, the same to operate as a supercedeas.

35 [Citation in usual form showing service on McKenney & Flannery, filed May 4, 1925, omitted in printing.]

36 In Court of Appeals, District of Columbia

[Title omitted.]

*Præcipe for transcript of record*

Filed May 2, 1925

The clerk will please prepare a transcript of record on appeal to the Supreme Court of the United States in the above-entitled cause and include therein the following:

The printed record in the Court of Appeals.

Minute entry as to argument of case.

The opinion.

The decree.

Petition for the allowance of appeal and assignment of errors.

Order allowing appeal.

Citation.

This designation.

THE UNITED STATES OF AMERICA,

By JOHN G. SARGENT,

*Attorney General of the United States, Its Attorney.*

Service acknowledged 1st day of May, 1925.

MCKENNY & FLANNERY,

*Attorney for Appellee.*

[File indorsement omitted.]

37 In Court of Appeals of District of Columbia

*Clerk's certificate*

I, Henry W. Hodges, clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages numbered from 1 to 36, inclusive, constitute a true copy of the transcript of record and proceedings of said Court of Appeals in the case of United States of America, appellant, vs. The Equitable Trust Company of New York, a corporation, No. 4207, April term, 1925, as the same remain upon the files and records of said Court of Appeals.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court of Appeals, at the city of Washington, this 5th day of May, A. D. 1925.

[SEAL.]

HENRY W. HODGES,

*Clerk of the Court of Appeals of the District of Columbia.*

[Indorsement on cover:] File No. 31,137. District of Columbia, Courts of Appeals. Term No. 430. The United States of America, appellant, vs. The Equitable Trust Company of New York. Filed May 8th, 1925. File No. 31,137.

